

The author(s) shown below used Federal funds provided by the U.S. Department of Justice and prepared the following final report:

Document Title: Violence Against Immigrant Women and Systemic Responses: An Exploratory Study

Author(s): Edna Erez Ph.D. ; Nawal Ammar Ph.D.

Document No.: 202561

Date Received: 11/14/2003

Award Number: 98-WT-VX-0030

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Violence against Immigrant Women and Systemic Responses: An Exploratory Study

Edna Erez, LL. B. , Ph. D.
Institute for the Study and Prevention of Violence
Kent State University
Kent, OH 44242

and **FINAL REPORT**

Nawal Ammar, Ph. D.
Department of Justice Studies
Kent State University
Kent, OH 44242

Approved By: M. Battle
Date: July 1, 2003

In collaboration with

The National Network on Behalf of Battered Immigrant Women

Co-Chaired by

Leslye Orloff, NOW Legal Defense and Education Fund, Washington, D.C.
Gail Pendelton, National Immigration Project of the National Lawyers Guild, Boston
Leni Marin, Family Violence Prevention Fund, San Francisco

May 2003

Report submitted to National Institute of Justice in fulfillment of requirements for Grant #98-WT-VX-0030

Views expressed in this report are those of the authors and do not represent the views of the National Institute of Justice.

Violence against Immigrant Women and Systemic Responses: An Exploratory Study

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“The God makes the sun comes out for all nations; that we be treated with justice not only in the family but through the judicial system.”
(Battered immigrant woman interviewee no. 28)

“The immigration laws should not punish people like me who are victims... I did not know that my husband was already married and that our marriage is not valid.”
(Battered immigrant woman interviewee no.110)

“Yes. I think it not only myself. I’m going to talk for many people. I feel I have no options but to stay with my abusive husband. I am a hard-working, honest person, who just wants to live in peace with no violence in my home, but I don’t have a job or a car or what is the most important: employment authorization in the U.S. If I would be able to work in the U.S., I would be happy and I would have happy children.”
(Battered immigrant woman interviewee no.130)

“I was very happy to know about the VAWA program, but when I was told all the requirements, I started crying. It is very necessary to make changes in the law for people like myself.”
(Battered immigrant woman interviewee no.131)

Preface

This research is a collaborative partnership established with the Network on Behalf of Battered Immigrant Women (hereafter the “Network”). The advisory board of the research project consisted of the co-chairs of the Network, our partners in the study-- Leslye Orloff, Gail Pendleton and Leni Marin--and members of the Network who work with different immigrant populations or in related capacities in various parts of the country--David Durand (Wisconsin), Lori Guzman (Texas), Christine Marriott (Pennsylvania), and Sujata Warrior (New York). The advisory board members, particularly the co-chairs, provided invaluable advice on multiple issues related to the project. They also played a significant role in our ability to access one of the most hard-to-reach populations--immigrant battered women. There is no doubt that without their informed advice and relentless efforts in making contacts, we would not have been able to tell the stories of so many different immigrant women. Our partners also undertook a critical role in convincing the overextended and overworked providers of legal and social services to immigrant populations, particularly those who serve women, to take time from their busy schedules and respond to the survey questionnaires. Without our partners’ help, the service providers’ experiences associated with working with this disadvantaged population and their frustrations, obstacles, and rewards would not have been documented in this report.

Special thanks go to the many bilingual social service providers who conducted the interviews of the battered immigrant women in the victims/survivors' native language. These dedicated interviewers from numerous programs or organizations worked in the following places: Clinica Monsignor Oscar Romero, Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), Central American Resource Center (CARECEN), the Legal Foundation of Los Angeles (LAFLA), Glendale YWCA in Glendale, Coalition to End Domestic and Sexual Violence in Ventura, and Asian Women's Shelter and Mujeres y Unidas Activas in San Francisco--all in California; Arab Community Center for Economic and Social Service (ACCESS) in Detroit, Michigan; Florida Immigrant Advocacy Center in Miami, Florida; New York State Office for the Prevention of Domestic Violence in New York, New York; Iowa Coalition Against Domestic Violence in Des Moines, Iowa; The Political Asylum Project in Austin, Texas; Jewish Family Services in Cleveland, Ohio; Northwest Immigrant Center in Seattle, Washington, and the Miles Foundation in Connecticut.

The service providers not only helped in identifying battered immigrant women willing to be interviewed but also volunteered their time, spending numerous hours interviewing the women well beyond what had been called for in their contracts. Their assistance and interviewing efforts were vital for overcoming interviewees' language barriers and fear of talking to strangers--obstacles which could have defeated any attempt to interview this vulnerable and fearful population.

The different data sets presented in these chapters were diligently processed by Shayna Chazin, Jae Russ, Melissa Solomon, Brandon Winarchick, and Marc Swatt. Shayna Chazin also helped with the writing of parts of the report. Marc Swatt assisted

with transforming the qualitative data into quantitative categories. Joan Marold provided valuable assistance with typing the manuscript, Kathy Campbell copyedited it and Linsey Britz gave the report her final touch.

Special thanks to our NIJ project monitor, Leora Rosen, for her help, advice, support, and encouragement in various stages of the project. We are also thankful for her patience with the project progress and her understanding relative to meeting a firm deadline and dealing with various unanticipated problems encountered during the research.

Introduction

Migration is a worldwide phenomenon affecting a large number of people. The United Nations Population Division and the UN High Commission for Refugees (1993) estimate that at a minimum, two percent of the world's population are migrants. Furthermore, the rapid globalization of the world's economies and political environments will ensure that the number of migrants, at least half of whom are women (in some countries, women account for the overwhelming majority of migrants), will increase substantially in all of the world's major geographical regions well into the 21st century (Teitelbaum and Russel, 1994).

Migration exacerbates the gender-linked vulnerability of women. It makes women further dependent on and at times puts them at the mercy of their husbands or intimate partners, sponsors or employers, nuclear or extended families, and their own ethnic/racial communities (Erez, 2001). Violence against women, or gender violence, has been recognized as a special risk for immigrant or refugee women (Erez, 2001; Kelly, 1999; Perilla, 1999). Recent research in the U.S. has confirmed that violence against women is one of the most common victimizations experienced by immigrants (Davis and Erez, 1998). Yet there has been little systematic research on the victimization of immigrants in general and women immigrants in particular.¹

The justice system's response to immigrant women's victimization has also received little scholarly attention. Considering the high level of violence in women's lives for both immigrants and non-immigrants alike, their appeals for help from the justice system and the degree to which the system's response holds itself answerable to

the particular needs of the immigrant women deserves closer attention. Likewise, the complex dilemmas battered immigrant women face in deciding to invoke the justice system response must be examined. In particular, the manner in which immigrant battered women's appeals for help may backfire and further compromise their ability to resist the violence or to create opportunities to rebuild themselves and attain safety and security in their new country, needs to be studied and contextualized.

The research reported here attempts to fill this gap. It presents the experiences of battered immigrant women who have encountered intimate and family violence and examines the common and unique features of abuse experienced by immigrant women relative to non-immigrant women. It highlights the dynamics of the abuse, the coping mechanisms immigrant women adopt, and their help-seeking behavior. It describes their appeals to the justice system and to legal and social service providers, with a special focus on the way in which immigration status and domestic violence interact within these institutional spheres. The report also details the justice system response to battered immigrant women from the victims/survivors' perspectives and from the perspectives of those who attend to their needs--service providers and domestic violence, family, and immigration lawyers.

We answer, from the perspectives of the victims/survivors and the professionals who assist them or advocate on their behalf, the most frequently asked questions about battered women in general and immigrant women in particular: Why are they battered? Why don't they leave (the abuser or the United States)? Why don't they report the violence to the police? Why don't they access social services offered in the new

country? Why don't they seek help from their own people? What happens when they contact officials, report their abuse, or seek social services?

Following a review of the extant literature, much of which comes from multicultural countries other than the United States or is U.S. based research but is culture/ethnic group specific (for review see Raj and Silverman, 2002), the report presents the history of relevant U.S. immigration laws. It focuses on the way these laws have impacted immigrant battered women and on the various legal reforms undertaken to address some of the legal problems encountered by immigrant women. The report then provides data on the battering experiences and help seeking behavior of the women victims/survivors, including their assessment of these services. We then present the views and experiences of the social service providers, advocates, and attorneys who work with battered immigrants. The professionals describe the quality and breadth of services available to battered immigrant women and offer their suggestions for ways to improve the system's response. Throughout the data presentation chapters and in the concluding chapter, special attention is paid to emerging issues and concerns regarding the justice system's response to battered immigrant women and their implications for research and policy. As the samples used in this exploratory research are neither random nor representative of their respective populations, the value of the results lies in the range of crosscutting themes regarding battered immigrant women and the justice system response to their plight rather than in any quantification of the data. Based on the findings, the concluding chapter provides suggestions for law reforms and policy recommendations that may assist in alleviating the plight of battered immigrant women *vis-à-vis* the justice

system.

Endnotes

¹ Most research has addressed the relationship between immigration and crime (see review in Martinez and Lee, 2000). Few studies have addressed the relationship between immigration and victimization (for exceptions, see Davis and Erez, 1996; 1989; Marten, 2001). With regards to victimization of immigrant women, as the literature review indicates, there have been some studies on various aspects of violence against immigrant women from specific ethnic or national groups (e.g. Latina or South Asian women; for recent reviews see Raj and Silverman, 2002; Menjivar and Salcino, 2002). Our research addresses common features of violence against immigrant women and systemic responses to the violence, regardless of ethnic or national origin of the immigrant victim/survivor. The focus on commonalities, however, does not imply that there are no unique features to each cultural group or that there are no differences and variations among them.

Chapter 1: Background and Literature Review

Immigration to the United States: Trends, Composition, and Public Policy

Immigration is an issue of importance to all the nations of the world, yet it has a special meaning for the United States, because this country is, and prides itself as being a nation of immigrants. In the eighteenth century, most of the lands that now make up the U.S. were inhabited by Native Americans and Mexicans living in the western states, but of the 280 million persons that now constitute the United States of America, only a portion can trace their roots to these groups. The majority of the current population can be traced to ancestors who have emigrated to the U.S. from other countries. Some came in chains (the African slaves), but most came out of choice to avoid famines and wars or simply in search of religious freedom and economic betterment.

The U.S., like other democratic multicultural societies such as Australia, Canada, United Kingdom, Germany, or Israel, is noted for its varied demographic composition and diversity of its social groups. Its population encompasses a variety of cultures, races, religions, ethnic groups, and linguistic communities. Substantial numbers come from non-English speaking backgrounds from Europe (East and West), the Middle East, South and East Asia, sub-Saharan and North Africa, and Central and Latin America. In 1990, the number of immigrants in the U.S. surpassed 1.5 million. According to the 2000 census, this number has increased substantially, and in some states the number of immigrants has practically doubled since the 1990s.

Current immigration flows to the U.S. are high and continue to grow: according to data from the Decennial Censuses and the Immigration and Naturalization Service,

annual immigration flows have tripled over the past generation, and greater numbers of immigrants have entered the U.S. during the last decade than any other decade. The recent flux in immigration levels has meant that the impact of immigrants is no longer felt only by the six large receiving states--New York, California, Florida, Arizona, Illinois and New Jersey--which over the past decade have settled the majority (about three-quarters) of the immigrants. The presence of immigrants also reaches beyond the eight "traditionally receiving states" (Massachusetts, Connecticut, Pennsylvania, Ohio, Michigan, Wisconsin, Minnesota, and Washington) and extends to the rest of the country, including the "new immigrant states" (Fix and Zimmerman, 2000). For some the "new immigrant states" such as Georgia, Delaware, Oklahoma, Kansas, Virginia and Nevada, the percentage of foreign-born persons who entered the U.S. from 1980 to 1990 ranged from 45.5 to 57.6 percent. According to the 2000 Census, the Hispanic population increased by more than 50 percent since 1990, from 22.4 million in 1990 to 35.3 million in 2000, compared with an increase of 13.2 percent for the total U.S. population (U.S. Census Bureau, Census 2000). The fastest growing states in the 2000 Decennial Census were Nevada (up 66 percent), Arizona (up 44 percent), Colorado (up 31 percent), Utah (up 30 percent) and Idaho (up 29 percent). Immigration flows of Hispanic populations to these states within the past decade corresponded to this unprecedented growth, with 43.5 percent of the total Hispanic population concentrated in the Western States (a category which includes those states mentioned above) and 32.8 percent living in the South. According to the Census Bureau, in 1997, the foreign-born population of the United States numbered 25.8 million persons or 9.7 percent of the total population. Over half

(51%) of this total foreign-born population was from Central America, South America, and the Caribbean. In March 1997, about 35 percent of the foreign born were naturalized citizens, and about 65 percent were not citizens.

According to Immigration and Naturalization Service (INS) data, the national origin of immigrants has also changed dramatically over the last few decades, shifting primarily from European to Asian and Latin American sources, with Mexico accounting for almost one-third of both the total immigrant population and the annual immigration flow. Lastly, many undocumented immigrants continue to reside within the U.S. despite the 1986 Immigration Reform and Control Act (IRCA). The INS estimated for the year 1996 that about 5 million undocumented immigrants were residing in the United States, with a projected growth of about 275, 000 undocumented persons each year. By far the largest majority of undocumented immigrants, more than 80 percent, originated from countries in the Western Hemisphere. Mexico was the leading country of origin, accounting for 2.7 million, or 54 percent of undocumented persons in 1996. It is also estimated that a third of the current annual immigration flow is undocumented (Fix et al., 2001).

Few domains of American public policy have been so driven by family considerations as the U.S. immigration laws. Immigration policies include legal admissions based on family unification goals, and these account for almost three-quarters of all legal immigration to the country. It is not as widely recognized that a significant share of the employment-based admissions and humanitarian migrants (e.g., refugees and asylees) are also premised on family relationships. The salience of family ties in

immigration laws, the role that familial relationships play in determining one's immigration status, rights and benefits, together with the impact of migration on gender role expectations (e.g., Erez, 2001) and on immigrant communities' reaction to such changes, have been at the center of many of the problems faced by battered immigrant women.

Migration and the Control of Female Behavior

It has been suggested that at the core of all cultures and fundamental to most group identities, are conceptions of the "virtuous" woman and related prescriptions concerning the appropriate behavior of females (Okin, 1998). A critical component of these conceptions is the expectations related to women's roles as wives and mothers. In the enforcement of these behavioral expectations, violence has become an unchallenged practice, particularly in the privacy of the home. Immigrant groups often carry concepts of familial, communal, or national honor that are strongly tied to idealized norms of female purity, virtue, and gender role fulfillment.

Cultural traditions, colonial hegemonies, and the vicissitudes of historical processes inform the development and perception of female virtue. Definitions of what constitutes appropriate behavior of women are justified in the name of society's prevalent or salient values; which include by way of example, nationalism, religion, morality, and health. This explains why most societies including the U.S. have tried to control, legislate and rigorously monitor the behavior of women. This also explains why all too often immigrant communities endeavor to resist the processes of acculturation and want to preserve a cultural identity focus on restricting women's roles and circumscribing their

behavior and sexuality. These practices can become the constructs of the immigrant community's social identity *vis-à-vis* the majority group (for review see Adelman, Erez and Shalhoub-Kevorkian, 2003).

Women from all cultural groups are expected to conform to their particular culture's ideal of female virtue. This expectation is heightened and intensified in times of upheaval, such as migration. Immigrant groups often experience such events/processes as an assault on their group identity and uniqueness. Their sense of safety and identity depends on a sharp contrast between two sets of cultural values-- their own and those of the majority society. These two sets are perceived as fundamentally different and unchangeable (Razack, 1998). The preservation of traditional versions of women's roles becomes central to maintaining a clear demarcation between the "old and the new" world (Pleck, 1991).

For men who experience displacement and a lack of control over their daily lives, as is often the case with immigrant populations, controlling women's behavior and sexuality becomes a symbol of continuity and orderliness. It provides immigrant communities a comforting sense that not all traditions are lost (DasGusta, 1997; Espin, 1998). Restricting women to their traditional roles is defined as central to preserving national identity and cultural pride (Narayan, 1997) and constitutes an attempt to protect and safeguard what remains of immigrant communities' unique identity.

In most cultures, the "proper" behavior of women is used to signify the difference between those who belong to the group and those who do not. Because women transmit the beliefs, rituals, family, and ethnic group histories, as well as role expectations to

future generations . They are seen as the cultural carriers of the collectivity and are therefore subjected to strict monitoring of their behavior (Yuval-Davis, 1993; DasGusta, 1997; DasGupta and Warriar, 1996). The proper control of women in terms of marriage, divorce and sexuality ensures that children who are born to these women remain not only biologically, but also symbolically within the boundaries of the group (Espin, 1998). Immigrant men may express this ideation by exhibiting a preference for arranged or intra-ethnic marriages, preempting the risks involved in marrying Western women or those who have been corrupted by Western values (DasGusta, 1997; Erez, 2000). Such control tendencies increase the prospects of violence against women or other forms of abuse to coerce compliance (see review in Adelman, Erez and Shalhoub-Kevorkian, 2003).

The tendency for strict control of women is often described as the excuse justifying the host country views of immigrant groups as primitive and in need of change. Associating the control of women with immigrant groups' culture provides the mainstream society yet another sign of their backwardness. Violence against women in immigrant communities is viewed as a group cultural attribute rather than an expression of male domination (Volpp, 1994; 1996).

When victims and their attackers are of the same race or ethnic group, it is commonly assumed that it is gender and not race or ethnicity that determines how the assault is "scripted" (Razack, 1998). Yet, cross-cultural evidence suggests that the judgment of violence by the majority culture is mediated through the stereotyping of immigrant cultures and their carriers (e.g., Espin, 1998). Immigrant communities, often perceived as primitive and prone to violence, are differentially treated by the justice

system in handling violence against women cases. Such attitudes by justice agents prompt members of immigrant communities to shun the justice system or view it as hostile, unsympathetic, and oftentimes counterproductive to achieving a judicious exigency. For these and others reasons, which the following sections will discuss, abused immigrant women in particular are hesitant to appeal for help from the justice system.

Immigrant women constitute often the weakest link between the majority society and their own communities. With little authority but heavy burdens, they are highly vulnerable and suffer multiple disadvantages compared to their male counterparts (see review in Raj and Silverman, 2002). For instance, due to migration, immigrant women are cut off from extended family and support systems and they lack language and employment skills, thereby precluding access to information and an independent source of income. These women are dependent, or believe they are, on the husband's immigration status and his permission and cooperation in order for her to stay in the new country (Abrahms, 2000a; Erez, 2000; Dutton, Orloff and Haas, 2000). Having to care for dependent children or fearing that they would lose them if they do not stay with their abusive spouses further restricts their movement and increases dependency on their spouses (Orloff et al., 1995; Haas, Orloff and Dutton, 2000).

Immigrant women also pay the price for the barriers and hardships their men experience in their encounter with the new society (e.g., Abraham, 2000a; Bauer et al., 2000). The violence they are subjected to as a consequence, however, by and large remains invisible to outsiders. Moreover, when they attempt to appeal for outside help from social, welfare or justice agencies, they find themselves in a double bind. If they

expose the abuse, their own communities view them as traitors for disclosing the violence. If the immigrant women bring their battering experience to the attention of the majority society, they risk exacerbating the racism directed at their community--at both immigrant men and women (Espin, 1998; see review in Adelman, Erez and Shalhoub-Kevorkain, 2003).

Further, immigrant women who report abuse are seen by the majority society as women who have abandoned their communities because they are so patriarchal, backward, or primitive--firm evidence of the immigrant culture's inferiority. These women, subjected to sexism in their own community and racism from the majority, find themselves caught between "gendered racism" (Espin, 1998) and "racialized sexism" in the host country. This predicament makes immigrant women highly reluctant to call officials for help. If they do overcome their reluctance to expose the abuse and involve the police, they are vulnerable to pressures to retract their grievances. These women are subjected not only to threats of family abandonment but also to collective denial or disregard of their victimization and an ensuing loss of community support. If justice officials are called, they are often apprehensive about intervening in what tends to be regarded as an internal immigrant community affair. This kind of approach has developed because community representatives (predominantly men) of minority groups frequently convey such messages to police and justice officials (e.g., Adelman, Erez and Shalhoub-Kevorkian, 2003). As one scholar noted, in this area "sexism and cultural chauvinism often collaborate to create tremendous resistance to acknowledging the extent of domestic violence within immigrant communities" (Narayan, 1995: 105).

In the U.S., as in other multicultural countries that have absorbed many immigrants (e.g. Canada, see Currie, 1995; for Snider, 1998), immigration status has often become a weapon in the arsenal of batterers, who use it to intimidate and control their victims. As men are more likely to have a superior immigration status (e.g. citizenship or lawful permanent residence), they use immigration status as a weapon to threaten and abuse their dependent spouses. Immigration laws and policies become real or perceived obstacles which immigrant battered women have to overcome in order to appeal for and receive help. They directly or indirectly shape victims/survivors' responses to the violence in their familial setting and determine the degree to which a victim/survivor is willing or able to mobilize the justice system on her behalf (Orloff et al., 1995; see reviews in Raj and Silverman, 2002; Menjivar and Salcino, 2002).

Immigration and Woman Abuse/Domestic Violence

Research has demonstrated that immigrants appear to be especially vulnerable to victimization, ironically at the hands of their own (Pogrebin and Poole, 1990; Davis and Erez, 1996; 1998). Victimization of immigrants is related to various kinds of conflicts. Some of them characterize the dilemmas facing any population; others are unique to immigrant communities.

Internal immigrant community disputes center on economic transactions, community politics, and competition over women, and reactions to requests for outside official intervention in family or community affairs (Pogrebin and Poole, 1990). Immigrant groups sometimes practice their own customs and traditions, which may clash with the laws of the dominant culture (Sellin, 1938; Hohm 1991). Often these practices

include abuse of family members, particularly women (Sluzki, 1979). For instance, many forms of woman abuse, including verbal, physical, and sexual, are not defined as crimes in some immigrant communities (Kelly, 1999). Research confirms that the highest inter-ethnic victimization category is that of domestic violence (Davis and Erez, 1998).

Family disputes--between husbands and wives or parents and children--often occur when wives and children reject old world (mostly male) authority and attempt to exercise rights and freedom practiced by their counterparts in their new homeland (Pleck, 1983).

Immigrant communities have particularly forceful reactions to these kinds of changes (Razack, 1998).

Abuse of immigrant women is also common when immigrant women marry non-immigrant spouses or when they are brought to a new country for the purpose of marriage. In the U.S., many unmarried male immigrants who become lawful permanent residents (LPR) return to their home country to find "a good wife"--a suitable woman who has not been "corrupted" by western influences (Narayan, 1995; Chin, 1994). Perceptions about the qualities of a "good wife"--a submissive and obedient woman, whose role is restricted to being a mother and a wife, and who is totally dependent on her husband--cut across a plurality of cultures and ethnic groups (Narayan, 1995). Arranged marriages are a viable (and arguably superior) cultural method of mate selection. However, immigration frequently distorts expectations of both parties, heightening tensions in the marital relationships. At the same time immigration undermines the intricate social and cultural supports usually available to women in their home country. It also negatively affects immigrant communities' predilection to exposing abuse in their

midst and results in a weaker, more obscure system of supports or (mostly informal) services for abused immigrant women than they may have received in their home communities (Abraham, 2000a; Erez, 2000).

Further, some Western men seek out non-Western women as wives. For example, some men find brides through advertisements by international matchmaking agencies (the so called “mail-order brides”, Anderson, 1993; Haile-Mariam and Smith, 1999), including the more recent and efficient services offered through Internet sites (Cunneen and Stubbs, 2000). American military personnel who serve abroad often marry foreign born women from the countries in which they are stationed (Miles Foundation, 2000). Western men also have cultured gender stereotypes, and thus international wives are at particular risk if they fail to live up to their husband’s idealized expectations of submission, control, and sexualized proprietorship (Anderson, 1993; Cunneen and Stubbs, 2000; Robinson, 1996).

An increasing number of women follow men or are part of families who are relocating on a temporary basis to pursue employment, research, and study opportunities that have emerged as a result of the expansion of global markets (e.g. Weeks, 2000). A substantial number of immigrant women also independently arrive in a new country (as refugees, tourists, students, etc.), and they marry to settle or decide to wed once they establish themselves. Many are doubly disappointed when their attempt to escape hardship or domestic violence in their own country backfires, and they encounter renewed violence as émigrés (Reichert, 1991; Raj and Silverman, 2002; Menjivar and Salcino, 2002). Their experiences with the police and the justice system in their own

countries then color their willingness to call the police for help in the new country (Davis, Erez and Avitabile, 2001).

The experience of battered immigrant women is inextricably connected with their dependent status as wives or mothers (and in some cases daughters). Usually, the husbands make the decision to immigrate for economic or political reasons (Espin, 1998; Erez, 2000). Women, however, immigrate to accompany, follow, and provide support to their spouses, because traditionally “marriage is forever.” The burden of providing support at all costs falls on women (Ciurak, 1985).

Many immigrant women come from cultures with highly defined gender roles, with men having the dominant decision-making role and women expected to be passive and submissive (see reviews in Raj and Silverman, 2002; Menjivar and Salcino, 2002). Feminists have long contended that woman battering, particularly between intimates, is an expression of male power, domination, and control (e.g. Stanko, 1990). Some observers argue that violence against immigrant women is merely a continuation of a prior pattern of abuse in their home country, where violence against women may be publicly tolerated, even condoned (Kelly, 1999).

Other researchers maintain that enhanced recourse to violence is often attributable to the tribulations of the immigration experience (e.g., Erez, 2000). Immigration often results in unemployment or underemployment due to language barriers or non-recognition of immigrants' occupational skills. This position of compromise recognizes that preexisting tendencies for battering can be exacerbated by immigration, resulting in increased frequency or severity of violence. Multiple social and financial problems are

correlated with violence and abuse of immigrant family members. For instance, loss of employment, the hardships associated with “making it” in a new country, and real or perceived “downward social mobility” are severe social stressors that may contribute to this dynamic (Dang and Alcuero, 1990).

Interpersonal factors that can play a role in violence against immigrant women include role reversals between spouses and between children and their parents. Conflicts arising from the breakdown of the extended family system likewise contribute to family violence. Sometimes immigrant families residing together in the same house share crowded living quarters, significantly intensifying levels of stress and frustration in the household. Coupled with a tradition of male dominance, these conditions can lead to the onset of or an increase in violence against immigrant women (Campbell, 1985).

Constraints on Leaving Abusers

Immigrant women suffer higher levels of violence and more varied forms of intimate partner abuse and isolation (e.g. Abraham, 2000b). In addition to physical, sexual, emotional, and economic mistreatment, immigrant women also sustain immigration-related abuse . Abusers may isolate their immigrant partner in many ways, including the following: by preventing her from calling or visiting her family back home, ridiculing her lack of or limited English skills, restricting her contact with “Americans” or otherwise limiting her ability to integrate into the U.S. society (Narayan, 1995; Surpriya, 1996). Research confirms the experiences of counselors and social workers who work with minorities or immigrants: families will not support a battered woman’s decision to leave, even if her injuries have required hospitalization (e.g. Abraham,

2000a). In many cases, the women fear retaliation by the husband's family (and sometimes their own families) if they return to their country of origin. Leaving an abuser to return to the home country also burdens the women with tremendous difficulties in providing economic support for themselves and their children. In many countries, gender is a barrier to adequate employment. Women who leave their husbands are commonly subjected to severe stigma and isolation, have very low chances of remarriage, and endure significant economic hardship (see reviews in Erez, 2000; Raj and Silverman, 2002; Menjivar and Salcino, 2002). Yet, leaving the abuser is often not perceived as a viable option for many battered immigrant women.

Like all women subjected to physical abuse, there are a host of social and economic factors that inhibit immigrant women from extracting themselves from abusive relationships. There are also legal and cultural reasons why immigrant women remain in such unfortunate circumstances (Metz, 1993). Immigrant women commonly rely on their husbands, regardless of how abusive they are, as their sole means of support. In the new country they often lack the extended family (e.g., parents, siblings) or other support networks. Leaving her husband usually means relinquishing not only financial resources (such as her home and personal effects) but also vital practical services she needs so that she can obtain work or maintain her job (Currie, 1995). These services include childcare, which are commonly provided by her extended family, or by her community (Erez, 2000).

There are social pressures on all women to remain in a marriage. In some cultures, however, divorce is such a stigma that a woman may never be accepted by her

cultural community and may never be able to remarry. In cultures where lineage, family integrity and the strict adherence to role obligation are highly valued, the risk of disgrace or losing face is serious enough to prevent a woman from leaving (e.g. Ayyub, 2000; DasGupta, 2000; Sorenson, 1996). If she leaves, the woman is typically deemed responsible for the end of the marriage even if she is abused. Her family of origin often will not accept her back, because such an act will bring shame and disgrace on the family name and mar the collective perception of the family's honor (Narayan, 1995; Surpriya, 1996). Research confirms the experiences of counselors and social workers who work with minorities or immigrants: families will not support a battered woman's decision to leave, even if her injuries have required hospitalization (e.g. Abraham, 2000a). In many cases, the women fear retaliation by the husband's family (and sometime their own families) if they return to their country of origin. Leaving an abuser to return to the home country also presents the women with tremendous difficulties in providing economic support for themselves and their children. In many countries, gender is a barrier to adequate employment. Women who leave their husbands are commonly subjected to severe stigma and isolation, have very low chances of remarriage, and endure significant economic hardship (see reviews in Erez, 2000; Raj and Silverman, 2002; Menjivar and Salcino, 2002).

Immigrant women themselves feel they must live up to their roles as wives and mothers, demanding the sacrifice of personal autonomy and freedom. Women internalize traditional expectations through the transmission of songs, poems, stories, and the cultural modeling of appropriate social behavior (e.g., Narayan, 1995). The woman is

considered the pivot point of the family, so regardless of the physical or verbal abuse she may endure, her primary responsibility is to care for and safeguard her family (Maglizza, 1985) and steadfastly remain at her husband's side (e.g. Surpriya, 1996; Song, 1996; see reviews in Raj and Silverman, 2002; Menjivar and Salcino, 2002).

Immigrant battered women exhibit strong reluctance to reveal the abuse to social service agencies, religious leaders, or any outside family members as it will bring shame upon themselves, their husbands and their children (Erez, 2000; Raj and Silverman, 2002; Menjivar and Salcino, 2002). The ideal of a "good wife" is strongly linked to its antithetical notion of the "shameless wife"--one who violates normative expectations, such as revealing the abuse or leaving the abuser (Maglizza, 1985). The "shameful wife" image acts as powerful self-discipline, militating against abused women's attempts to disclose the violence or leave their abuser (Currie, 1995; DasGupta and Warriar, 1996; DasGupta, 2000). One researcher composed this observation about Latina women (and this could equally apply to women from Muslim, East or South Asian as well as many other communities): "Having her identity constrained to that defined by her patriarchal community, a Latina woman who considers leaving her abusive partner not only creates an affront to the batterer but also challenges the core of her identity" (Kelly, 1998; see also Rodriguez, 1999; Morash, Bui and Santiago, 2000).

A woman who violates social and gender norms may also be disowned by her family and harassed by her community. Although there are many positive and practical aspects of extended families, in circumstances of abuse, its very self-sufficiency paradoxically works against the needs of battered women (Erez, 2000).

Immigrant Women Resisting or Reporting the Violence

Immigrant victims in general are reluctant to report crime and cooperate with authorities due to an intricate combination of cultural, social, and legal reasons (Davis and Erez, 1998). Within immigrant communities there is preference to treat interpersonal conflicts as private matters to be resolved internally, even in the extended family network (see review in Adelman, Erez and Shalhoub Kevorkian, 2003). For women, memberships in churches, temples, or other religious institutions provide an amplified sense of community and much needed continuity and support. Immigrant women who do take early steps to find help with abuse often turn to other women in the community as confidants--female friends, mothers, and sisters (Dutton, Orloff and Hass, 2000.) At the same time, cultural norms and religious prescriptions may not offer battered women the kind of support and encouragement they require to escape from violence in the home (Okin, 1998; see reviews in Raj and Silverman, 2002; Menjivar and Salcino, 2002).

Attempts to raise issues of violence against women in immigrant communities are often deflected by the community leadership as an imposition of irrelevant "Western" agendas with an insistence that "our tradition" or "our families" do not suffer from these problems endemic to "Western" marriages (Narayan, 1995). Religious leaders of many immigrant communities quickly point out that women who disclose domestic violence are a very small contingent of deviant rebellious women and that abuse does not really occur among their followers. Religious values and institutions often reinforce traditional responses to woman battering and act as disincentives to contact the justice system (Okin, 1998).

Immigrant women who have managed to overcome cultural incentives to remain silent are still wary of requesting help from law enforcement agencies (see reviews in Erez, 2000; Raj and Silverman, 2002). As many other immigrants, they may have had negative experiences with authorities in their country of origin (Pogrebin and Poole, 1990; Davis and Erez, 1998), or they may have undergone feared or anticipated unpleasant experiences with legal institutions in their new country (Meeker and Dombrink, 1988; Davis, Erez and Avitabile, 2001; Wachholz and Miedema, 2000). They may also hold legitimate concerns that they will be subjected to differential treatment because of their ethnicity, gender, and immigration status (Davis and Erez, 1998; Dutton, Orloff, Haas, 2000).

Additionally, some immigrant battered women are afraid that official action will lead to the deportation of their abusers. Many women believe that their own legal immigration status is dependent on their spouse's immigration status. They fear their spouse's deportation will result in their own deportation. Few are aware of the recent laws that can offer many abused immigrants an avenue to attain legal immigration status independent of their abusers. Deportation is an omnipresent weapon with which abusers threaten their immigrant partners, regardless of their partners' immigration status. Batterers frequently use lawful immigration status to intimidate and coerce their partners to stay (Anderson, 1993; Orloff et al., 1995). Abusers of undocumented immigrant women routinely threaten to call immigration authorities if the victim reports the abuse (Surpriya, 1996; Hass, Orloff and Dutton, 2000). This threat of deportation is powerful enough to prevent them from leaving. Distrust of the government, ignorance of

immigration law, and deception by abusers often combine to keep immigrant women in abusive relationships (Orloff, 1995; Bauer et al., 2000; Erez, 2000).

The overriding rationale for many immigrant women staying in abusive relationships, however, is the prospect of losing their children. Many immigrant women fear that deportation or loss of residence status could mean losing custody of their children (Dutton, Orloff and Hass, 2000; Orloff, 1995). Return to her own country often signifies never seeing her children again and loss of custody rights in favor of the father. These women believe, because their abusers have told them so, that separation or divorce in the U.S. will have the same result, when the contrary is more likely to be the case, as courts often award custody to the non-abusive parent even when she does not have legal immigration status (American Bar Association, 2000).

Through their employment and education opportunities, men are more likely to have better language skills and access to information. Typically, it is the male who negotiates family affairs with the outside world. As the primary conduit of information to the women of the household, men can maintain control, and this power is often a part of the domination characteristic of abusive relationships (Erez, 2000). Restricted access to information has always been a major factor impeding women's utilization of appropriate support services. For immigrant women, the language barrier exacerbates the problem (Orloff, 1995; See reviews in Raj and Silverman, 2002; Menjivar and Salcino, 2002). Frequently, they are pre-literate in their own language. An inability to read, combined with other language problems, reinforces barriers to accessing information or communication (e.g. Song, 1996). Lack of fluency in the mainstream language inhibits

searching for information, resources and services available through the justice and health care systems (Erez, 2000; Raj and Silverman, 2002; Menjivar and Salcino, 2002). Many immigrant women, for example, do not know that they can obtain protection orders even if they continue to live with their abusers, that they can remove the abuser from the family home, or can receive assistance from domestic violence groups even if they do not move to a shelter (Orloff, 1995). Immigrant women are often unaware that if they leave the home they may be eligible for child support and financial assistance from the state (Maglizza, 1985). For undocumented women, leaving is more difficult because without immigration papers they cannot work legally and may not be entitled to welfare assistance, including housing . Few know that if they qualify for immigration benefits because they have been abused by a citizen or legal resident spouse, they can receive permission from the INS to access the welfare safety net. Nor do they realize that their citizen children can receive benefits even if the mother cannot.

Frequently, immigrant women's social relationships are confined to those who share their language. Lack of linguistic skills thus contributes to the isolation of immigrant women, maintaining their dependence on the family, which in turn reinforces familial and cultural interpretations of assault (Abraham, 2000a; Erez, 2000). Members of the linguistic community are often linked to the husband and are therefore unlikely to support the woman against him. Abusers' control tactics exploit and reinforce the very same vulnerabilities that immigrant women need to overcome in order to reduce their isolation and dependency, such as fear of the unknown, self-image and confidence.

Interpreters and Immigrant Battered Women

Many immigrant women are not versed in the language of their new country and often may not read and write fluently in their own language. This means that when they need to convey their complaints or grievances concerning their abuse, they need to rely on friends, neighbors, relatives, or community members to provide them with necessary translation (see reviews in Raj and Silverman, 2002; Menjivar and Salcino, 2002). Family and community members may not be informed about options to combat woman battering or can collude with the abuser to mislead the victim. Children, who are often versed in the language of the new host country and are asked to translate, may be endangered by such requests, as the abuser may view this as collusion with their mother against him. The children may also not approve of their mother's resort to official channels for assistance. They may therefore be uncooperative in translating her wishes or communicating in her name (Erez, 2000). Asking a child to translate for the mother may also impose baffling and oftentimes traumatic fissures of loyalty for the child, exacerbating his or her own difficulties of adjustment to the new home country.

Reliance on official interpreter services may not be sufficient to counter these communication problems with officials. Interpreters are still not routinely available in encounters with the justice system. Further, the degree to which an interpreter acts professionally and is unbiased, particularly if they are drawn from newly arrived communities, remains problematic (Erez, 2000). If the immigrant woman or another interested party calls the police, unless the officers are versed in the immigrant woman's language or have interpreters employed by the police department (neither of which is a

common occurrence), police officers are likely to gather necessary information from the husband or even the children (Dutton, Orloff, and Hass, 2000). The husband, often the person who is more versed in English, can easily dictate the sequence and nature of events to the officers and hence, control the outcome of the incident.

In crisis situations, interpreters are often not available, and so police act on incomplete information, often mediated through scared or unsympathetic family members, or the husband himself. For instance, family members may be unfamiliar with legal terms and meanings, or may directly or inadvertently convey their disapproval of a woman seeking outside help to deal with sensitive family issues. Communication difficulties can undermine even the justice system's best efforts to assist the women. Immigrant women in such situations can often be persuaded to accept inappropriate or second-best legal remedies or solutions. Often they waive their rights or sign documents that are not in their best interests based on unsound and unsympathetic partisan advice (Erez, 2000).

Battered immigrant women either do not know about or do not regard the criminal justice system as an appropriate avenue for seeking assistance (Song, 1986; Sorenson, 1996). Many women have a legitimate fear that they will be turned over to immigration authorities if they make contact with the police (see review in Raj and Silverman, 2002). For immigrant women who overcome these obstacles, existing crisis intervention services are not geared to meet their needs. Immigrant women who do get to shelters experience intense isolation and alienation in these facilities (e.g., Huisman, 1996; Wilson, 1996). Language barriers hamper the counseling process and inhibit the immigrant woman's

participation in support groups (Almeida, 1993). Food, child rearing practices, and leisure activities are often not suited to the needs of women from immigrant communities (Huisman, 1996).

Shelters are frequently often perceived by the women as the “point of no return” or as a refuge following an irreconcilable breakdown of the marriage, rather than as a resource for assistance and support through a marital crisis (Ciurak, 1985). Social workers in shelters and other agencies report that shelter residents think they are receiving charity or feel an obligation to repay the providers for the services that they have received (e.g., by doing more than their fair share of work in the shelter, assuming an additional burden of taking care of other residents’ children, or allowing other residents to consume their food). Language barriers once again impede their access to correct information, counseling, or legal advice if the staff is not familiar with the language and culture of the immigrant women (see review in Raj and Silverman, 2002). Also, if an immigrant woman is the only immigrant at the shelter, she cannot receive the support that often comes from friendships with other residents, because they do not speak her the language (Almeida, 1993). There are commentators who suggest that special services for abused immigrant women be established, while other critics argue that separate services (such as shelters) merely serve to increase these women's separation from mainstream society (Erez, 2000).

In sum, there are numerous cultural, contextual, and practical reasons that militate against the reporting of abuse by immigrant women. These reasons include the following: protection of privacy and family honor, family solidarity, and lifelong

commitment of women to their family (as daughters, wives, and mothers), collectivist rather than individualist orientation, highly defined gender roles, and the expectation that women must sacrifice for their families or exhibit stoic forbearance in the face of conflict or abuse. These values interact with immigrant women's isolation, economic insecurity, language barriers, lack of information on support and assistance, perceived or anticipated racism or discrimination in the criminal justice system, and fear of accessing the system based on prior negative experiences or due to immigration consequences. Taken together, these factors combine to account for the low rate of reporting abuse and violence among immigrant women (see reviews in Erez, 2000; Raj and Silverman, 2002; Menjivar and Salcino, 2002).

In the following chapters, these issues will be explored through interviews of immigrant battered women from different ethnic groups or national origin and the lawyers and service providers who attend to the multifaceted needs of immigrant populations. Our main interest is in the common experiences of immigrant women regarding domestic violence and its interaction with immigration laws. While we appreciate the diversity, heterogeneity and unique experiences by women from different cultural, ethnic, or national backgrounds, our study focuses on their shared experiences rather than on any unique features or variations of experiences by particular groups. The experiences of the social providers and attorneys who work with immigrant populations further illuminate the plight of immigrant women who attempt to escape violence in their lives.

Chapter 2: Legal Protections for Battered Immigrant Women- Historical Overview*

*This chapter was written by Leslye E. Orloff and Janice Kaguyutan. Negar Ashtari provided valuable assistance.

Introduction

This chapter provides a historical overview of the legislative protections for battered immigrant women in the United States. Early U.S. immigration laws concerning immigrant spouses began with placing full and absolute control over the battered immigrant's legal status in the hands of the abusive U.S. citizen or lawful permanent resident spouse or parent. Following an evolving understanding of the social and personal costs of domestic violence to all women and children, regardless of their immigration or citizenship status, but particularly for women who are immigrants, this understanding has resulted in important legal changes. In particular, it led to the passage of critical legal protections and welfare access for a broad array of battered immigrant women and their children who have been or are being abused in the United States.¹

Pre-1986

The 1922 Cable Act gave male citizens and lawful permanent residents control over the immigration status of their immigrant wives and children. The law required that a husband had to either file a petition for his wife or accompany her when she applied for immigration status. Women who were citizens or lawful permanent residents could not, however, file petitions for their male immigrant spouses. This approach followed the doctrine of "coverture" that was a part of U.S. common law at that time (Calvo, 1991). Coverture was defined as the principle by which "the very being or legal existence of the

woman is suspended during the marriage, or at least incorporated and consolidated into that of the husband, under whose wing, protection, and cover, she performs everything.”²

The doctrine of coverture also gave a husband the right to “chastise” or even kill his wife if he deemed it necessary punishment (Calvo, 1991: 593). This created a social climate that condoned and even encouraged domestic violence.

Although later legislation, particularly the Immigration and Nationality Act of 1952, changed the language to make it gender-neutral, the impact of the spousal sponsorship laws is still rooted in the coverture mentality (Calvo, 1991: 598). Since the power of sponsorship and autonomous action lies with the citizen or lawful permanent resident spouse, and because the majority of immigrant spouses and victims of domestic violence are women,³ the implications of spousal sponsorship are most serious for women. “The law gives so much power to the citizen or resident spouse that the alien spouse is faced with an impossible choice: either remain in an abusive relationship or leave and become an undocumented alien and be deprived of home, livelihood and perhaps child custody” (Calvo, 1991).

1986

In 1986, Congress codified a number of changes in immigration law that further jeopardized the safety of battered immigrant women and their children. The Immigration Marriage Fraud Amendments of 1986 (IMFA) “substantially added to the control of a citizen or resident spouse over his alien spouse’s immigration status” (Calvo, 1991:606). The IMFA re-confirmed the original power of the lawful permanent resident or citizen spouse to control the immigration status of his alien spouse by allowing her to become a

legal resident only if he petitions for her. It also went further to impose a two-year conditional status on any alien spouse who gained legal residency based on marriage to a United States citizen or lawful permanent resident (Calvo, 1991: 608).

The law required a joint petition to be filed ninety days before the expiration of two years from when the alien spouse first gained her legal status, possibly followed by a scheduled joint interview with an INS official (Calvo, 1991). The law did not require the citizen or lawful permanent resident spouse to file for his spouse or to follow through with the joint petition. Nor did it oblige him to stay in the marriage for the two-year period during which his wife was dependent on him for her immigration status. This attempt to “curb fraud” and expose “sham marriages” did, however, place battered immigrant women at the mercy of their husbands (Tamayo, 1991: 8). It also placed in jeopardy the immigration status of any children whose legal resident status was based on their mother’s marriage to a U.S. citizen or lawful permanent resident. If the mother’s status terminated, so did the children’s (Calvo, 1991: 608). The IMFA did contain two provisions that allowed the Attorney General to change the alien spouse’s conditional status to a permanent status without her fulfilling the requirements of the joint petition and interview if she satisfied the criteria for “extreme hardship” or “good faith/good cause”. However, these discretionary waivers proved to be limited and narrow in scope and did little to alleviate the burdensome effect of the IMFA legislation on battered immigrant women (Calvo, 1991: 610). In fact, despite Congressional intent, both waivers were interpreted by INS not to apply, in most cases, to immigrant women who were abused by their citizen or lawful permanent resident husband (Calvo, 1991: 610).

In the case of the “extreme hardship waiver”, the alien spouse had to demonstrate that extreme hardship would result from deportation, considering only those circumstances that arose during the period that the alien spouse was admitted for permanent residence on a conditional basis (Calvo, 1991: 609). Even if successful in demonstrating these facts, the alien spouse was not guaranteed a waiver; discretion to grant or not to grant waivers was left up to INS. Some INS officials adopted the interpretation that the extreme hardship waiver did not really apply to battered immigrant women, because they suffered hardship in the United States and deportation would not likely increase hardship. This opinion ignored the extreme hardship inherent in a battering situation and the difficulties resulting from deportation for battered women (Calvo, 1991: 610).

Such views were also premised on the erroneous belief that deportation would bring an end to family violence. This perception was contrary to experts’ understanding of the dynamics of domestic violence. First, carrying out deportation against an abused immigrant spouse or child made the government an accomplice in the abuse. Abusers of immigrant women use threats of deportation to keep their victims from reporting the abuse and cooperating in prosecutions. Deporting an abused spouse has the effect of carrying out the abuser’s threats. Second, deporting the immigrant domestic violence victim does not keep the victim safe from ongoing abuse. Abusers who are U.S. citizens and lawful permanent residents are free to travel abroad and in many instances follow their victims to their home countries and continue the abuse in a place where there are often no laws or enforcement to stop them. In other cases, the abuser’s family members in the home country continue to abuse and terrorize the abuse victim and her family

members. Finally, the U.S. societal cost of deporting immigrant domestic violence victims is high. Abusers of immigrant spouses and children are not held accountable for their crimes and go on to abuse other intimate partners in the future. Further, if battered immigrant spouses who report abuse are deported, word of these deportations spreads, having a chilling effect on other immigrant domestic violence victims by making them reticent to seek any justice system help.

Similarly restrictive and arbitrary, INS insisted that for the ‘good faith, good cause’ argument to hold, the alien spouse would have had to initiate divorce proceedings herself. This promoted a “race to the courthouse” between the wife seeking a waiver and the husband trying to block her by being the one to initiate divorce (Calvo, 1991: 611). It did not take into consideration the difficulties involved in leaving an abusive marriage and finding a lawyer. Neither the fact that the battered immigrant woman lived in a state with no-fault divorce laws nor the fact that the husband was ultimately found to be at fault played any role in the immigration case if she did not initiate the divorce proceeding herself (Calvo, 1991: 610). The standard of “goodness” was itself also questionable. In final evaluation, the good faith, good cause waiver did not afford battered women any meaningful relief. This was particularly true in light of the fact that INS officials administering these waivers received no training on domestic violence, nor were they aware of how the dynamics of domestic violence affected family relationships.

1990 Battered Spouse Waiver

The first legislation that recognized domestic violence as a problem experienced by immigrant wives dependent on their citizen and lawful permanent resident spouses for

legal immigration status was the “battered spouse waiver” which became law in 1990.⁴ The Immigration Marriage Fraud Act was amended to include a new battered spouse waiver that reflected a growing recognition of the grave impact that the IMFA had on battered immigrant women. The battered spouse waiver was designed specifically to offer relief for battered immigrant spouses. It no longer required the immigrant spouse to be the one initiating divorce and did not require marriage termination for a “good cause.” The battered spouse waiver exempted immigrants, who were battered or subjected to extreme cruelty by their U.S. citizen or lawful permanent resident spouse and who had already acquired their conditional residency, from the joint petitioning process (Tamayo, 1991: 8).

The battered spouse waiver defined domestic violence as “battering or extreme cruelty.” This definition of domestic violence was derived from the definition of domestic violence that was evolving in international law that included some forms of emotional abuse.⁵ This definition was more inclusive than the domestic violence definition included in the vast majority of state protection order and criminal domestic violence statutes at the time that covered only actions that were a violation of criminal laws including threats and attempts (Orloff and Klein 1993: 870-873).⁶ The battered spouse waiver’s adoption of a definition of domestic violence based on international rather than U.S. law is similar to the approach U.S. immigration law has taken in other contexts in which protections are being offered for humanitarian reasons.⁷

While the battered spouse waiver helped battered immigrant women and their children who were locked in abusive marriages for two years by the IMFA, a basic shortcoming remained nonetheless. The 1990 law allowed the coverture-based control of

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the earlier immigration legislation to continue. An immigrant spouse could still only become a legal resident if her citizen or lawful permanent resident spouse sponsored her. If the U.S. citizen or lawful permanent resident spouse never initiated the immigration process for his immigrant spouse, or if he began the process and later withdrew the application he had filed, the battered immigrant spouse was barred from attaining legal immigration status without her abuser's help. Additionally, when INS implemented the battered spouse waiver, they did it in an extremely narrow way, severely limiting the number of battered immigrants who had suffered extreme cruelty who would be granted the relief.

1994 The Violence Against Women Act

Background

The Violence Against Women Act of 1994 (VAWA),⁸ included as part of the Violent Crime Control Act of 1994, was the first piece of federal legislation in the U.S. specifically designed to help curb domestic violence. VAWA's overarching goals were to enhance justice system protection for battered women and to expand collaboration and cooperation between battered women's supportive services and the criminal and civil justice systems. VAWA recognized that battered women's advocates played a key role in assuring successful interventions that stop domestic violence.

The VAWA provisions provided funding for police, prosecutors, battered women service providers, state domestic violence coalitions, and a national domestic hotline. Funds were available to improve services to victims, to improve police department and prosecutor's office procedures for handling domestic violence cases, to educate and train community members and professionals about domestic violence, and to foster

collaboration and cooperation between battered women's advocates and justice system personnel.⁹ VAWA provided incentives to jurisdictions seeking funding to abolish practices that were harmful to battered women. Jurisdictions requesting funding were required to certify that they do not charge fees in protection order cases and policies and procedures in place prohibiting dual arrest and mutual protection orders, and that they have pro or mandatory arrest policies in place for domestic violence cases. VAWA included provisions guaranteeing full faith and credit for civil protection orders issued in other states and made interstate domestic violence and interstate violation of protection orders a federal crime. Additionally, VAWA included special protections for battered immigrant women and children abused by U.S. citizen or lawful permanent resident spouses or parents.¹⁰

Congressional Intent

When VAWA was enacted in 1994, Congress viewed it as “an essential step in forging a national consensus that our society will not tolerate violence against women”¹¹ and the terror it spawns.¹² It recognized that domestic violence threatens the lives, safety, and welfare of millions of women and children in the U.S. every year. Congress found that spouse abuse is serious, chronic, and national in scope.¹³ Congressional reports noted that in 1991 at least 21,000 domestic crimes against women were reported to police every week and that unreported domestic crimes were estimated to be more than three times the level of reported crimes.¹⁴ According to Congressional reports, three to four million women in the U.S. are abused by their husbands each year (Klein and Orloff, 1993).¹⁵ Surgeons General have repeatedly warned that family violence poses the single largest health threat to adult women.¹⁶ One million women each year seek medical

attention for injuries committed by male partners.¹⁷ One-fifth of all reported aggravated assaults involving bodily injury occur within intimate relationships¹⁸, and domestic violence against female victims often results in injury (Rennison and Welchans 2000). The U.S. Department of Justice (1997) has reported that more than one in three women who seek care in emergency rooms for violence-related injuries are victims of domestic violence. Finally, family violence accounts for a significant number of murders: one-third of all women who are murdered die at the hands of husbands or boyfriends.¹⁹

Congress also saw the immigration laws as one part of a larger failure to confront the domestic violence issue. The House of Representatives Committee on the Judiciary found that domestic battery problems are “terribly exacerbated in marriages where one spouse is not a citizen and the non-citizen’s legal status depends on his or her marriage to the abuser,” because it places full and complete control of the alien spouse’s ability to gain permanent legal status in the hands of the citizen or legal permanent resident. A battered spouse may be deterred from taking action to protect herself, such as filing for civil protection order, filing criminal charges, or calling the police because of the threat or fear of deportation. As a result, many immigrant women live trapped and isolated in violent homes, afraid to turn to anyone for help. They fear continued abuse if they stay and deportation if they attempt to leave.²⁰

In crafting VAWA 1994's immigration provisions, the impact of domestic abuse on children was a major concern to Congress. When battered immigrant women are locked by immigration laws in abusive marriages to U.S. citizens and lawful permanent residents, they are forced to raise their children in an environment where children will

learn that perpetrating violence is an appropriate means of addressing anger and frustration.²¹ VAWA 1994 contained two provisions designed to help children living in abusive homes. First, Congress recognized that an abuser's control of the immigration status of the parent of the abused child would inhibit the reporting of child abuse and the removal of the child from the abuser.²² To address this issue, in addition to offering VAWA immigration protection to abused immigrant children, protection was extended to the immigrant parents of child abuse victims. Second, battered immigrant mothers were explicitly authorized to include their children who were undocumented as derivative applicants in the mothers' VAWA self-petitions.

By adopting the VAWA immigration provisions, Congress intended to provide battered immigrant women and children abused by their U.S. citizen and lawful permanent resident spouses or parents with a way to attain lawful immigrant status without their abusers' cooperation or knowledge.²³ By amending the immigration laws Congress sought to provide battered women and children with a means of escape. VAWA was also designed to enhance the ability of battered immigrants to help in the prosecution of their abusers by providing them the protection of legal immigration status. Prior to VAWA, abusers of immigrant women could use control over immigration status and threats of deportation to make themselves immune from any risk of prosecution or punishment. Abusers could assure that their victims remain forever undocumented and could have their victims deported if they cooperated with authorities.

VAWA's battered immigrant provisions allowed for immigrant women, whose abusive citizen and lawful permanent resident spouses attempted to use their immigration status as a means of inflicting physical, emotional, and economic abuse on them and their

children, to file to receive lawful immigration status without the approval, assistance, or cooperation of their abusive spouses. They could either self-petition for permanent resident status or apply for suspension of deportation.

Self-Petitions Under VAWA

Through VAWA, the ability to self-petition for one's own immigration status was made available to an immigrant woman married to a citizen or lawful permanent resident (she had to be married to him at the time the application was filed; divorce was a bar), who did not file or may not follow through on immigration papers with the INS. She had to prove battering or extreme cruelty, and a good faith marriage. She was required to establish that she resided with the abuser for a period of time (no specific time period required), that she was of good moral character, and that she or her children would suffer extreme hardship if deported. Abused children of U.S. citizen or lawful permanent resident were also eligible for this remedy, as were the unabused spouses who were parents of children abused by the undocumented immigrant parent's U.S. citizen or lawful permanent resident spouse. Both undocumented battered immigrants and documented battered immigrants with non-permanent visitor, student, or work-based visas could file self-petitions. Self-petitions could be submitted by abused wives, husbands, or children, as the statute was gender-neutral and could be used to help any immigrant who qualified.

*Suspension of Deportation*²⁴

A battered immigrant who was placed in deportation proceedings was also provided VAWA relief in her deportation case.²⁵ Battered immigrants could file for a special VAWA form of suspension of deportation that if granted would allow them to

remain in the U.S. and adjust their own immigration status to that of a lawful permanent resident without the assistance of their abusive spouse or parent. In order to obtain this remedy, the battered immigrant woman had to prove the following: she would suffer extreme hardship if she were deported, she has three years of continuous physical presence in the U.S., she is or was married to a citizen or lawful permanent resident (divorce is not a bar to filing for VAWA suspension), she resided with the abuser and married him in good faith, and she has good moral character. The elements required to establish VAWA suspension of deportation were very similar to self-petitioning with the additional requirement of three years of physical presence in the U.S.

Additionally, VAWA suspension of deportation was an important remedy for some battered immigrants who could not self-petition. These included those who were divorced, whose spouses lost lawful permanent resident status due to criminal activity including domestic violence crimes, whose spouses died before they could file or obtain their permanent resident status under a VAWA self-petition, and the immigrant parents of child abuse victims when the abusive citizen or lawful permanent resident father was not married to the child's immigrant mother. If successful in the VAWA cancellation case, the battered immigrant would obtain lawful permanent residency. If unsuccessful, she would ultimately be forced to leave the U.S.

Credible Evidence Standard

VAWA also created a special evidentiary standard that INS and immigration judges were required to use when adjudicating cases of battered immigrants for both VAWA and battered spouse waiver cases. In implementing the 1990 battered spouse waiver amendments, the INS adopted a regulatory approach that was unworkable and

contrary to congressional intent (Davis and Calvo, 1991).²⁶ In doing so, the INS of that time demonstrated a lack of understanding and willingness to learn about the dynamics of domestic violence experienced by immigrant women. INS created by regulation a requirement that battered women submit an affidavit of a licensed mental health professional in order to prove extreme cruelty and qualify for the battered spouse provisions.²⁷

This approach was unworkable for most battered immigrants. First, most had no access to the economic resources needed to pay for a mental health evaluation because of their abuser's control over all family funds (Bau and Tamayo, 1995). Second, few mental health professionals had the requisite domestic violence training, cultural competence, and language abilities to conduct the evaluations INS required for these cases.²⁸ Third, this approach focused on the effect of the domestic violence on the victim instead of on the perpetrator and his abusive conduct. To correct this misinterpretation and ensure that similar regulatory errors did not happen with VAWA, Congress mandated that INS was required to accept "any credible evidence" in all VAWA and battered spouse waiver cases.²⁹

VAWA Implementation

VAWA has been critical in removing the reigns of power from the hands of abusive U.S. citizen and lawful permanent resident spouses and granting control over the immigration process to the battered immigrant women whose life and well being and that of their children depend on it. Since the publication of the interim regulation in March 1996, INS has received more than 11,000 VAWA self-petitions, and has approved over 6,500. Many of the denials were persons who filed for VAWA before regulations were

issued and who did not qualify, and many others were cases of battered immigrants who could prove the abuse and a valid marriage but who did not have legal representation or the assistance of a trained advocate and could not prove extreme hardship on their own.³⁰ This number does not include the children of self-petitioners who derive immigration status through a parent's self-petition.³¹

Although VAWA passed in 1994 represented a great stride forward in providing legal protection for battered immigrant women, it was a compromise with a number of significant shortcomings. While it helped many suffering battered immigrant women and children, many still remained locked in abusive homes without any real remedy. The shortcomings in VAWA 1994 and additional problems caused by immigration reforms occurring subsequent to 1994 became the focus for battered women's advocates in the drafting of new legislation that after much delay became law on October 28, 2000, as part of the Violence Against Women Act of 2000 (VAWA 2000). VAWA 2000's immigration provisions were the most recent of several amendments affecting VAWA-eligible battered immigrants. The next section of this paper will discuss several of the problems that battered immigrants who needed the protection of VAWA encountered. The final section will discuss the solutions to these problems that were included in VAWA 2000 as well as the outstanding issues that will make up the battered immigrant women's advocacy agenda for the future.

1996 Immigration and Welfare Reforms

In 1996 and 1997, sweeping changes were made to immigration laws. The passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA)³² and the Antiterrorism and Effective Death Penalty Act (AEDPA)³³

drastically limited legal immigration and heavily penalized those who violated immigration laws. These changes include the following: bars to entry and to legal immigration, summary rejection of arriving asylum seekers, elimination of due process protections from the deportation process, restriction of federal court review of practices, and restrictions on public benefits (Wolchok, 1997). In addition, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)³⁴ passed the same year cut off many immigrant non-citizens from access to federally and state funded public benefits.

Despite all these restrictive legislative amendments, the advocacy community effectively managed to obtain statutory language in IIRAIRA that preserved access to VAWA's immigration protections, extended access to public benefits for battered immigrant spouses and children of U.S. citizens and lawful permanent residents, and secured other enhancements to legal protections for battered immigrants. Two of these enhancements are the following:

1. *Exemption from the Three and Ten Year Bars.* IIRAIRA barred immigrants who are in the U.S. unlawfully are barred from re-entering the U.S. for either three or ten years depending on the length of their unlawful residence in the U.S. VAWA's immigration protections were designed to offer immigration relief and protection to battered immigrant women and children who were by and large in the country illegally due at least in part to the actions or inactions of their abusive citizen or lawful permanent resident spouses or parents. Since application of the bars to VAWA immigration cases would defeat the purpose of the VAWA protections, IIRAIRA exempted battered immigrant VAWA recipients from the three and ten year bars to re-entry.

2. *Confidentiality Rules.* IIRAIRA also extended the protection of special new confidentiality rules that prohibit INS or other justice department officials from releasing information about a battered immigrant's case to any person. The confidentiality provisions further barred the INS from using information provided by an abuser against a battered immigrant to deny her application for immigration benefits or harm her in any way.

Public Benefits Access for Battered Spouses and Children of Citizens and Lawful Permanent Residents

In the aftermath of the 1994 VAWA, it became evident that opening an avenue to legal immigration status was not enough to end domestic violence for battered immigrant women. These women also desperately needed access to the welfare safety net. Escaping a violent relationship is an extremely difficult feat for any victim of domestic violence--citizen or immigrant. On the one hand, battered women face the danger of violent retaliation from the abuser when they attempt to flee. Women trying to leave violent spouses are twice as likely to become victims of homicide than are abused women who continue to cohabit with their abuser (Wilson and Daly 1993). On the other hand, for their efforts to leave to be successful, they also have to struggle to find a means to survive economically apart from the batterer.

One of the most significant improvements IIRAIRA made was to restore some public benefits to battered immigrants who were denied benefits by the Personal Responsibility and Work Opportunity Reconciliation Act³⁵ (PRWORA). Further, IIRAIRA expanded public benefits access to a group of battered immigrants many of whom are undocumented who, prior to IIRAIRA, had no access to the public benefits

safety net. Three groups of battered immigrants benefited from this expanded access to public benefits:

1. VAWA self-petitioners and VAWA cancellation and suspension applicants;
2. Battered immigrants who were the beneficiaries of I-130 family based visa applications filed by abusive U.S. citizen or lawful permanent resident spouses or parents; and
3. Battered immigrant conditional or lawful permanent residents who had previously been barred from access to public benefits by deeming.

IIRAIRA included three provisions designed to facilitate battered immigrant access to public benefits. First, IIRAIRA Section 501³⁶ added a new subsection (c) to Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which expanded the PRWORA definition of “qualified alien”³⁷ to include VAWA self-petitioners, VAWA suspension and cancellation applicants, and battered immigrant spouses and children who were beneficiaries of I-130 family based visa applications among the limited groups of immigrants eligible to access some public benefits.³⁸ These specified battered immigrants were granted access to welfare benefits despite the fact that they would be undocumented at the time they file for and receive benefits. New Section 431(c) allowed this limited group of battered immigrant women and children to become “qualified aliens” eligible for public benefits after filing of their VAWA or family based visa applications which contained prima facie evidence of eligibility.³⁹

Second, Section 531(c) of IIRAIRA exempted battered immigrants with VAWA cases from the affidavit of support requirement.⁴⁰ In order to immigrate to the U.S. based on a family petition, the sponsoring relative (often a spouse or parent) must sign a legally enforceable affidavit promising to support the immigrating family member at an income

that is 125 percent of the federal poverty level.⁴¹ Battered immigrants whose sponsors are their abusers were exempted from filing affidavits of support.

Third, Section 552 of IIRAIRA provided an exemption from deeming rules for all qualified alien battered immigrants.⁴² Battered immigrants who had received lawful permanent resident status through a family based visa application filed by their citizen or lawful permanent resident spouse or parent were required to have the sponsoring spouse or parent file an affidavit of support. All immigrants, including battered immigrants with affidavits of support, had been subjected to deeming rules that effectively barred them from accessing public benefits. Under deeming rules, immigrants are deemed to have full access to all of the assets and the income of their sponsoring spouse or parent whose income is counted for the purpose of determining whether the immigrant is eligible to receive public benefits. The exemption from deeming battered immigrants was designed to help both battered immigrants with pending or approved VAWA cases or family based visa petitions and battered immigrants who were lawful permanent residents whose abusive spouses had filed affidavits of support. IIRAIRA removed deeming as a barrier to benefits access for these groups of battered immigrant women and children.

These public benefits provisions were included in IIRAIRA, because Congress recognized that immigrants battered by their U.S. citizen or lawful permanent resident spouses or parents would not be able to leave their abusers, cooperate in their abuser's prosecution, or seek protection from the courts if they could not sever the economic control their abusers held over them. Without access to the public benefits safety net, the Congressional purposes of VAWA 1994 were being thwarted. Battered immigrants who qualified for the stable immigration status offered them by VAWA 1994 were not

applying, because they continued to be locked by economics in the abusive relationships from which Congress hoped to offer them freedom.

In IIRAIRA, Congress granted access to the welfare safety net to battered immigrants based on an understanding of the key role economic survival plays in battered women's successful escape from abusive relationships. For both citizens and immigrant victims of domestic abuse, escaping a violent relationship is not easy. Battered women in the U.S. typically make several attempts to leave their abusers before they ultimately succeed (Okun, 1988). Absent intervention, it is almost guaranteed that the same woman will be assaulted again and again by the same man.⁴³ Battered women face the danger of violent recrimination from the batterer when they attempt to flee (Harlow, 1991; Ganley, 1992), and they are twice as likely to become victims of homicide than are abused women who continue to cohabit with their abuser (Wilson and Daly, 1993).

Additionally, economic dependence of women upon their abusive partners is one of the primary reasons they remain in violent relationships (Strauss and Gelles, 1990; Kennedy and Brown, 1996: 10-11).⁴⁴ For battered immigrant self-petitioners, the inability to work legally further exacerbates these problems. Self-petitioners are only granted work authorization after their VAWA self-petition has been approved. From the time their VAWA self-petition has been filed through approval, receipt of deferred action status, application and receipt of work authorization can take anywhere from four months to significantly longer (Orloff, 2001: 38). During that time period, many self-petitioners' only option for economic survival may be reliance on the welfare safety net. In some situations, government services provide a critical bridge to abused women and children as they attempt to escape abuse and prepare to move on with their lives.

Battered immigrant women and children need to access social services and public benefits as a means to support themselves and their children during difficult periods of transition away from their abusers. These public benefits are part of a package of relief which includes safe shelter/housing, food and clothes, medical care, court protection, custody of their children, work authorization, and the ability to obtain lawful immigration status. Some battered immigrants who work, may only be able to obtain part-time employment or low-wage employment and may need to rely partially on public benefits to support their U.S. citizen children, particularly in cases where the abuser is not paying court-ordered child support.

In IIRAIRA, Congress went out of its way to grant access to public benefits for VAWA-eligible battered immigrants and for battered immigrant spouses and children of U.S. citizens with approved I-130 family based visa petitions. The PRWORA severely restricted immigrant access to public benefits but at the same time explicitly granted specified groups of immigrants access to programs defined as federal public benefits. Although the PRWORA did not include battered immigrants on the original list of immigrants granted benefits, when IIRAIRA passed later in 1996, IIRAIRA added certain categories of battered immigrants to the list of immigrants who could receive benefits.⁴⁵ Congress clearly wanted immigrant spouses and children abused by U.S. citizen and lawful permanent resident spouses and parents to have access to the public benefits safety net.

This approach was consistent with other steps Congress took in 1996 to offer protection to battered women and children. When Congress passed the Personal Responsibility and Work Opportunity Act (PRWORA) of 1996,⁴⁶ and the Illegal

Immigration Reform and Immigration Responsibility Act of (IIRAIRA) of 1996,⁴⁷ it included provisions that preserved some access for battered women and battered immigrant women to public benefits, thus providing them with the transitional economic support needed to leave an abusive relationship.

The PRWORA included a Family Violence Option (FVO) which sought to encourage states to screen Temporary Aid to Needy Families (TANF) applicants for domestic violence while maintaining confidentiality, to make referrals to counseling and supportive services, and to grant good-cause waivers of certain welfare program requirements. The FVO would help all battered women who could qualify for TANF benefits. Further, the waivers could be used to help battered immigrants get credit for English as a Second Language classes as part of a job readiness program and ensure that all battered immigrants are exempt from deeming rules whether they have pre or post IIRAIRA affidavits of support from their abusers that could otherwise require states to consider all of the abusers.

As discussed above, IIRAIRA added a new subsection (c) to PRWORA's list of qualified aliens that specifically authorized that certain groups of undocumented immigrant battered women and children could access public benefits on their own behalf. To qualify for benefits, in addition to having a pending or approved self-petition or family based visa petition, the battered immigrant must also prove that she has separated from her abuser and that there is a substantial connection between the abuse and the need for benefits, and applicants who are not self-petitioners must prove that they have been battered or subjected to extreme cruelty.⁴⁸ The Attorney General of the United States was delegated the responsibility of determining under which circumstances there would

be a substantial connection between the need for benefits and the abuse.⁴⁹ Since IIRAIRA passed, some battered women and their children have benefited greatly from the ability to access the welfare safety net to help escape abusive relationships. Other battered immigrant women and children who are qualified aliens have been reluctant to apply for benefits due to concerns about public charge.

Although Congress in IIRAIRA recognized that battered immigrant women need access to public benefits to be able to survive economically apart from their abusers, INS did not issue clear guidance or regulations⁵⁰ confirming that immigrant women and children who were granted access to public benefits by IIRAIRA would be exempt from public charge inadmissibility. If a battered immigrant is determined to be inadmissible on public charge grounds, this would effectively deny them access to lawful permanent residency based on VAWA. Granting legal access to the welfare safety net will not help battered self-petitioners unless they can be assured that seeking the help afforded them by Congress will not cut them off from access to lawful permanent residency through VAWA (Orloff, 2001). This lack of clarifying regulations resulted in widespread confusion on the part of providers, community members, state welfare workers, and battered immigrants about the legal rights of battered immigrant women and their children and rendered the safety net created by Congress difficult for many to access out of fear that it could lead to their deportation.

Many eligible women refused to apply for welfare benefits they desperately needed, because they feared that accessing those benefits would result in being denied adjustment of status to lawful permanent resident on public charge grounds. Some returned to their abusers and waited out the period of time until they could attain their

lawful permanent residency under the VAWA while suffering ongoing additional abuse. Other battered immigrants were forced to trade the dangers of their home with the abuser for the dangers of the streets living in substandard housing and trying to feed, clothe and care for their children any way they could. Women who did access public benefits out of sheer necessity were afraid to file for adjustment of status once their VAWA application had been approved.⁵¹

As with VAWA 1994, the battered immigrant access to benefits included in IIRAIRA was a political compromise that only partially achieved its goals. In addition to the problem with public charge rules needing clarification with regard to battered immigrants, battered immigrants who were newer arrivals were subject to a five-year bar to benefits, and few battered immigrants could access SSI or Food Stamps.

The Expiration of Immigration and Nationality Act (INA) Section 245(i) B January 14, 1998

At the time that VAWA was passed in 1994, there existed a provision in the INA that allowed immigrants who had entered the U.S. illegally to adjust their status to lawful permanent residency while remaining in the U.S. Any immigrant who entered the U.S. illegally, or in the case of relatives of lawful permanent residents, entered lawfully but worked without permission or overstayed a visa, could opt to pay a fine which rose as high as \$1,000 to be allowed to adjust to permanent resident status while remaining in the U.S.⁵² The INA provision that allowed for this adjustment of status was known as Section 245(i) of the INA. This provision provided significant revenue to the INS⁵³ and allowed those with approved immigrant visa petitions to remain in the U.S. while adjusting their residency status (Buckley 1998). For battered immigrant VAWA self-

petitioners who were granted special access to work authorization and deferred action status,⁵⁴ this meant the ability to live and work in the United States and to continue to support their children while they waited in line to receive their lawful permanent residency status.

Section 245(i) was scheduled to sunset on September 30, 1997.⁵⁵ Deletion of Section 245(i) from the INA meant that immigrants⁵⁶ with approved immigrant visas who either entered the U.S. illegally or overstayed an earlier visa could no longer adjust status within the continental United States. Instead, these immigrants would be forced to return to their countries of origin and obtain their green cards⁵⁷ through visa processing at U.S. embassies or consulates abroad. Included among these immigrants were battered immigrant women with approved VAWA self-petitions or immigrants otherwise qualified for VAWA protection. The expiration of this provision made battered immigrants more vulnerable to abuse and deterred them from leaving their abusers and from bringing criminal charges against their abusers.

On November 13, 1997, Congress voted to allow Section 245(i) of the INA to sunset on January 14, 1998.⁵⁸ On November 26, 1997, the President signed legislation containing the provision that eliminated the benefits of Section 245(i) for all immigrants seeking permanent residency status. When Section 245(i) ended, battered immigrants petitioning for immigration relief under VAWA lost their ability to obtain green cards while remaining safely within U.S. borders.

Section 245(i) B--A Catch-22 for Battered Immigrants

Extreme Hardship

The sun setting of Section 245(i) presented an urgent problem for battered

immigrants who had self-petitioned under VAWA. Without Section 245(i), many battered immigrants with approved VAWA self-petitions filed after January 14, 1998, were required to return to their countries of origin to obtain their green cards. These battered immigrants had already proven to the INS that they needed the protection in the United States that VAWA offered and that they could not safely return to their home countries. At the time, as a pre-cursor to approval, VAWA applicants had to prove to the INS that they would suffer extreme hardship if forced to return to their countries of origin.⁵⁹ The extreme hardship proof was one of the many evidentiary requirements that battered immigrants had to meet in order to gain approval of their VAWA self-petitions. Not all VAWA self-petitioners could meet this test.

Generally, a battered immigrant could meet the extreme hardship test if she proved that her abuser was able to travel to her country of origin, that she will be in danger due to the loss of her U.S. restraining order when she travels outside the U.S., or that her country of origin lacks laws or services to protect her from abuse. She could also satisfy the test if she established that she would lose custody or visitation of her children by being forced to leave the U.S., or if she or her children would suffer from physical or mental health problems by discontinuing the treatment they were receiving in the U.S. to help them cope with the effects of the abuse. She had to show that similar physical or mental health services were unavailable in her country of origin. In addition, she could meet the test by demonstrating that she and her children would suffer due to human rights violations or political and social turmoil present in her country of origin (Orloff, Jang and Klein, 1995).

Proving extreme hardship was particularly difficult to battered immigrant women

who filed for VAWA immigration relief on their own without the help of a trained advocate or attorney. The requirement of extreme hardship resulted in many denials of VAWA self-petitions for battered immigrants who could prove the abuse, good moral character, and a valid marriage. For this reason, it was one of the provisions advocates sought to eliminate from the VAWA legislation.

Immigrants who benefit from family-based petitions filed by non-abusive spouses or parents can receive lawful permanent residency status without proving extreme hardship (Kelly 1998). The sun setting on Section 245(i) made no exception for battered immigrants who had already proven that returning to their countries of origin will jeopardize their safety, undermine the treatment they rely on to overcome the abuse, and/or interfere with custody decrees crafted to protect children from the harmful effects of domestic violence. The law placed battered immigrants who had proven extreme hardship and all other evidentiary tests sufficient to receive approval of their VAWA self-petitions in a difficult and dangerous catch-22 situation. Battered immigrants would have to risk the dangers of leaving the United States and the protections of U.S. laws to attend an immigrant visa interview to obtain their green cards abroad or remain in the United States with no means to attain lawful permanent residency status.

Thus, hundreds of battered immigrants whose self-petitions had been approved by INS remained in permanent limbo. Since the only mechanism to attain lawful permanent residency status was to travel abroad and they could not do so safely, they were forced to remain in the United States with approved VAWA self-petitions,⁶⁰ but no formal legal immigration status and no safe means to obtain lawful permanent residency status.

Devastating Effects for VAWA Self-petitioners

Battered immigrants who had successfully self-petitioned under VAWA would suffer many hardships and dangers if they were forced to return to their countries of origin to obtain their green cards. Many of these dangers would be present even if battered immigrant VAWA self-petitioners had not been required to prove extreme hardship to have their self-petitions approved. These hardships and dangers can be summarized as follows:

Risk of Abuse Abroad: Leaving the U.S. deprives battered immigrants of the protection provided by U.S. laws, court orders, and law enforcement (Orloff, Cundari and Esterbrook, 1999). Restraining orders are not valid outside the territory of the U.S., thus making battered immigrants vulnerable to abuse the moment they leave the jurisdiction of the U.S. courts (Foster, 1999). The Violence Against Women Act made restraining orders enforceable across state lines in every U.S. jurisdiction. However, these orders have no effect outside of the U.S.⁶¹ Batterers who are U.S. citizens or lawful permanent residents can readily travel abroad and can take advantage of abused immigrants' lack of legal protection. Since the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 made the crime of domestic violence a deportable offense,⁶² a batterer who is a non-citizen and who has been convicted of a domestic violence crime may be deported to the same country where the battered immigrant would be forced to return to obtain her green card (Kelly, 1996).

Loss of Custody of the Children: There are no procedures in place at U.S. embassies and consulates abroad for processing cases of battered immigrants with VAWA self-petitions approved by the INS. Although battered immigrants are exempt

from the three- and ten-year-bars to re-entry that apply to other immigrants who have been unlawfully present in the U.S., there are no regulations implementing these exemptions for VAWA self-petitioners (Orloff, 1998: 6). Thus, it is not possible to predict how long a battered immigrant would have to remain abroad to obtain her green card under VAWA.

If battered immigrants were forced to travel abroad to obtain lawful permanent residency status, they would be separated from their children for an indeterminate period of time. Often, a battered immigrant woman is the sole caretaker of her children and has a court order awarding her custody of the children. Knowing that she would have to leave the U.S. and potentially remain abroad for several months to obtain her green card created significant problems for a battered immigrant. For example, a battered immigrant may have to take her children with her so that she can protect them from her abuser. However, taking the children with her may be economically impossible, since she cannot predict how long she will have to remain abroad. Taking the children with her also may result in the violation of a court order awarding her abuser visitation with the children. As a result, the abuser may succeed in having parental kidnapping charges filed against her (Calvo, 1991: 598). If a battered immigrant decides not to take her children with her when she travels abroad to get her green card, she must then locate a temporary place for the children to stay that is safe from her abuser. This is often a very difficult, if not impossible, task. Whether or not the battered immigrant succeeds in finding a place for her children to stay, once she leaves the U.S., her abuser may use her absence from the United States as an excuse to file for permanent custody of the children, claiming that she has abandoned them (Calvo, 1991: 598).⁶³

Furthermore, many battered immigrants may not be able to leave the U.S., because custody matters are still pending in the courts. Neither parent may remove the children from the country without court permission once a custody case has been initiated. To attain such court permission, a battered immigrant must be able to guarantee to the court that she will return to the U.S. by a fixed date. Providing such a date is impossible, since the battered immigrant will not be able to predict how long it will take to obtain her green card abroad. If she misses a U.S. court date for a pending custody matter, she may risk losing custody of her children permanently and risk being held in contempt.

Abuser Kidnapping the Children: Battered immigrants who contemplate leaving the United States to attain their green cards have been concerned that if they leave their children in the U.S. with a trusted relative, their abusers will either petition the courts for custody of the children or attempt to kidnap the children. Conversely, battered immigrants have also been concerned that if they bring their children with them to their countries of origin, their batterers will follow them there, kidnap the children, and take the children back to the U.S. or to another country.

Shame and Loss of Familial Support: Many battered immigrants would face severe social stigma if they were forced to return to their countries of origin after divorcing or separating from their husbands (Kelly, 1992: 681-682; Narayan, 1995).⁶⁴ Women are often deterred from reporting domestic violence in the U.S. or leaving their abusers, because they fear that their families and communities in their countries of origin will condemn or ostracize them for publicly exposing their husband's abuse and breaking up the traditional family unit (Rimonte, 1992).⁶⁵ Religious norms and social

constructions of gender roles in the immigrants' home countries also penalize the returning immigrant who has dared to leave her abusive husband (Anderson, 1993). Thus, VAWA self-petitioners forced to return to their home countries to obtain their green cards may not be able to access help and support from their families and communities during the time they must remain abroad.

Lack of Physical and Mental Health Care Abroad: Victims of domestic violence and their children often suffer from physical and mental health problems as a result of the abuse (Weissman, 1994). These problems include depression, low self-esteem, post-traumatic stress disorder, and long-term physical injuries caused by the abuse.

If a battered immigrant or her children receive treatment from mental health professionals in the U.S., discontinuing treatment for the weeks or months needed to obtain a green card abroad could cause tremendous emotional damage for women and children struggling to rebuild their lives. Additionally, for some battered immigrants or their children, travel abroad for any period of time would disrupt treatments they are receiving in the U.S. for physical ailments. Often, these immigrants would be unable to find an adequate level of affordable health care treatment in their home countries. The issue becomes even more complicated when a battered immigrant's child has a physical ailment that requires treatment in the U.S. If the battered immigrant is the sole caretaker of the child, and the immigrant would be forced to take the child with her when seeking her green card, discontinuing the child's medical treatment may result in life-threatening consequences for the child.

Poor Socio-political Conditions Abroad: Returning to the battered immigrant's country of origin could also, in some cases, subject her to political persecution, war,

torture, jail, extreme poverty, disease, entrenched gender discrimination, or death.

(Weissman, 1994).

Inf feasibility of Consular Processing for VAWA Self-petitions: Consular officers abroad have not received the training they need to enter proper decisions regarding VAWA self-petitioners' qualifications for lawful permanent residency. Untrained consular officials may choose to re-open and re-evaluate approved VAWA self-petitions. Allowing consular officials who do not appreciate the particular problems battered immigrants face to overturn decisions made by INS adjudicators with expertise in domestic violence poses grave dangers to battered immigrants.

The problem and danger to battered immigrants lie in allowing consular officers abroad to determine whether or not battered immigrants will receive their green cards. First, the domestic violence that the approved VAWA self-petition was based upon must usually have occurred in the U.S.⁶⁶ Any additional evidence to support the self-petition is also in the U.S. Thus, a battered immigrant would be unable to gather whatever additional evidence might be needed to convince the consular official to grant her lawful permanent residency status based on her self-petition. Within the U.S., both administrative agency and judicial review are afforded to all immigrants whose self-petitions or adjustment applications are denied approval by the INS. By contrast, no judicial review is available to immigrants for decisions made by consular officers at embassies and consulates abroad. The consular officer could deny the battered immigrant a green card and trap her in her country of origin without a way to legally re-enter the U.S. No review of the consular officer's decision would be available.⁶⁷

Even though a battered immigrant has left the U.S. with an approved VAWA

petition in hand, a consular officer abroad could determine that the battered immigrant's personal affidavit was not believable or that she did not suffer enough violence, although no specific quantity of violence is required by the statute. These problems are common when untrained judges and adjudicators issue rulings in domestic violence cases. They rise from a lack of understanding of the psychological dynamics of abusive relationships. Once trained, most adjudicators come to understand the facts which to an untrained decision-maker would raise questions as to the abuse victim's credibility; but to a trained adjudicator the facts so closely fit the patterns of domestic violence that these same facts actually enhance the petitioner's credibility. For example, untrained adjudicators may fail to credit a battered woman's testimony, because they cannot believe she would have stayed in the relationship if such abuse were occurring. A trained adjudicator would understand that she stayed because of her abuser's power and control over her.

The INS has followed the lead of other justice system professionals who work on issues of domestic violence. Many courts, police departments, and prosecutors' offices have created specialized units with trained staff to handle domestic violence cases (Klein and Orloff, 1993).⁶⁸ The INS has adopted this integrated approach. A team of adjudicators who work only on VAWA cases has been formed allowing for the centralized collection and adjudication of VAWA self-petitions. All VAWA cases are handled by a group of specially trained immigration adjudicators at the INS Vermont Service Center (Orloff, Cundari and Esterbrook, 1999). This group of officers has been made aware of the particular evidentiary burdens that victims of domestic violence face and has developed expertise in adjudicating these cases.

Violence Against Women Act 2000's Legislative Solutions

Although the original VAWA helped many battered immigrants, in many respects the legislative protections for battered immigrants remained incomplete. Immigration and welfare reform laws passed subsequent to VAWA effectively barred access to VAWA protection for many immigrants, and implementation problems continued to plague the VAWA process. As a result, many immigrant victims of domestic violence remained trapped in these violent relationships despite the significant gains in VAWA. Further, the original VAWA did not offer any protection to several categories of battered immigrants, including the following: immigrants abused by citizen and lawful permanent resident boyfriends, immigrant spouses and children on non-immigrant visa holders⁶⁹ or diplomats, and the non-citizen spouses and children of U.S. government employees and military members living abroad. In response, the battered immigrant advocacy community mounted a campaign to respond legislatively to the problems battered immigrants still faced.

Through the bipartisan efforts of sympathetic members of Congress working collaboratively with the advocacy community, Congress passed and President Clinton signed into law the Battered Immigrant Women Protection Act as a part of the Violence Against Women Act of 2000 on October 28, 2000.⁷⁰ The immigration provisions in VAWA 2000 were a bipartisan compromise (Moline, 2000) that included many, but not all, of the reforms advocates sought. VAWA 2000's immigration provisions were designed to restore and expand access to a variety of legal protections for battered immigrants by addressing residual immigration law obstacles standing in the path of battered immigrants seeking to free themselves from abusive relationships.⁷¹ Several key

protections sought for battered immigrants were not included in the final version of VAWA 2000. The missing provisions will form the basis for future legislative advocacy on behalf of battered immigrants. Future legislation will be needed to address the following:⁷²

- Give battered immigrants who entered on fiancé visas equal access to VAWA's immigration protections;
- Offer protection to immigrant victims of elder abuse;
- Provide access to self-petitioning to immigrant young adults, particularly incest victims, who were abused as children under the age of 21 but who failed to file their VAWA self-petition before turning 21 years of age;
- Allow battered immigrant spouses and children of lawful permanent residents to self-petition within two years of the abusive lawful permanent resident spouse's death.
- Grant battered immigrant spouses and children of citizens and lawful permanent residents access to food stamps and SSI;
- Exempt battered immigrant qualified aliens eligible for public benefits who first entered the United States after August 22, 1996, from the 5-year bar to receipt of benefits;
- Clarify that battered immigrants and other qualified aliens get access to public and assisted housing;
- Ensure that battered immigrants are not cut off by divorce from their ability to use some or all of their abusive spouse's 40 quarters to qualify for public benefits.
- Allow Legal Services Corporation (LSC) Funded programs to use non-LSC funds to represent battered immigrant women in any legal matter connected to the abuse in any case, in which the relationship between the victim and the abuser is covered by state domestic violence laws. Also allow the use of federal LSC funding to assist battered immigrants in VAWA immigration cases.
- Clarify that justice system personnel are not required to ask about immigration status of crime victims and must focus instead on enforcing

criminal laws.

The next section highlights significant categories of immigration relief and several new provisions offered in the VAWA 2000. Included in Appendix A are charts that provide a more detailed analysis of the new protections for battered immigrants and immigrant crime victims that were included in VAWA 2000.⁷³

Improved and Expanded Access to VAWA Immigration Protection

The immigration protections found in VAWA 2000 were generally designed to expand access to VAWA and to remove obstacles battered immigrants faced when leaving or attempting to leave an abusive relationship. VAWA 2000 amendments removed stringent evidentiary requirements and broadened the categories of who may be eligible for VAWA protection.

Easing VAWA Requirements

As part of their VAWA case, battered immigrants were required to provide extensive documentation that they would suffer extreme hardship if they were deported back to their home country. This difficult evidentiary standard prevented many battered immigrants from receiving approvals of their VAWA cases, particularly if they were not represented by counsel. VAWA 2000 removed this unnecessary requirement, thereby making it easier for battered immigrants to win approvals of their VAWA self-petitions.

Expanded Categories

The VAWA 2000 extends VAWA 1994's immigration protections to many battered immigrants who previously did not qualify for VAWA but were nonetheless subjected to battery or extreme cruelty by their U.S. citizen or lawful permanent resident spouse or parent.

These categories of persons include the following: battered spouses who unwittingly marry bigamists, battered children included in their abused parent's VAWA case who turned 21 years of age before they could be granted lawful permanent residence, battered immigrants living abroad abused by their citizen or lawful permanent resident spouses or parents who are U.S. government employees or who are members of the U.S. uniformed services (including military members), and battered immigrants currently residing abroad who have been subjected to one or more incidents of abuse in the U.S. perpetrated by their U.S. citizen or permanent resident spouse or parent.

In order to be eligible for VAWA, the battered immigrant must be married to or the child of the abuser, and the abuser must be a citizen or lawful permanent resident. VAWA 2000 now allows a battered spouse whose citizen spouse died, whose spouse lost citizenship, whose spouse lost lawful permanent residency, or who is divorced from her abuse spouse to file a VAWA case. Applicants must file the self-petition within two years of divorce, death, or loss of citizenship or residency status.

Improved Access to Public Benefits

Under previous immigration laws, battered immigrants who used public benefits as means to survive economically during or following their escape from an abusive relationship were denied lawful permanent residence due to public charge. Battered immigrant women who relied on the welfare safety net were penalized and were made vulnerable to deportation. VAWA 2000 recognized the desperate need for battered immigrants to survive economically and clarified that a VAWA self-petitioner's use of public benefits specifically made available under the IIRAIRA⁷⁴ does not make the

immigrant ineligible to receive lawful permanent residence. VAWA 2000 prohibits the INS, an immigration judge, or a consular official from considering benefits usage authorized by IIRAIRA in any case of a battered immigrant applying for adjustment based on an approved self-petition.

Restoration of 1994 VAWA Protections

Obtaining Permanent Residence in the U.S.

In the period since VAWA 1994b became law, there were several changes to immigration laws. One very dangerous change forced battered immigrants to leave the U.S. in order to obtain their lawful permanent residence. By leaving the U.S., battered immigrants were left unprotected even though they may have protection orders against their abusers. Battered immigrants were defenseless to retaliatory attacks made by their abusers or family members once arriving in their home country where the protection order could not be enforced. VAWA 2000 changed this requirement to allow battered immigrants to safely access lawful permanent residence while remaining safely in the U.S.

VAWA 2000 allows battered self-petitioners to adjust status under Sections 245(a) and (c) of the INA. This is the same mechanism under which spouses, parents, and children of U.S. citizens who entered the U.S. lawfully may adjust their status. This legislation restores a previously existing option to a group of needy battered immigrants who, in good faith, married citizens or lawful permanent residents only to suffer domestic violence at their loved-one's hands.

Waiver for Crimes of Domestic Violence

Another post 1994 change to immigration laws made domestic violence a

deportable crime. While the goal of this law was to strengthen the hand of victims of domestic abuse, its practical effect included deporting battered women who were wrongly subjected to dual arrest, arrested when they acted in self-defense, or arrested for a crime that was connected to their being a victim of or attempting to escape domestic violence. Further, many battered immigrants who find themselves facing arrest or conviction lack sufficient knowledge to navigate the criminal justice system. As a result, many battered immigrants accept plea agreements that can ultimately lead to their deportation. To resolve this problem, VAWA 2000 gives the INS and immigration judges the discretion to waive this ground of deportation for many victims after considering the entire history of domestic violence in the relationship. To qualify, the battered immigrants must demonstrate that they were not the primary perpetrator of abuse in the relationship.

Filing Motions to Reopen

A significant victory in VAWA 2000, though not as far-reaching as advocates would have wanted, is that battered immigrants are now eligible to file motions to reopen their closed deportation cases with some limitations. Battered immigrants can file a motion to reopen up to one year after the final adjudication of their deportation case. This one-year time limitation can be waived by the INS or an immigration judge upon a showing of extraordinary circumstances or of extreme hardship to children.

Access to Funding Programs

VAWA 2000 guarantees equal access to all VAWA funding streams (Stop, Arrest, Rural, Campus, Civil Legal Assistance) for programs serving battered immigrants. Programs can receive funding to provide a broad range of services to

battered immigrants including shelter, outreach advocacy, and legal representation and assistance to battered immigrants in protection order, family law, and in VAWA and other immigration-related matters. Further, VAWA 2000 allows programs to apply to use VAWA funds for INS and immigration judge training.

Removal of Procedural Barriers

Changes to Immigration Status

If the batterer becomes a naturalized citizen, the immigrant spouse or child's self-petition will be upgraded to be processed more quickly in the same manner as spouses or children of United States citizens.

Waivers

In 1996, immigration law was changed to impose a broad range of bars precluding many immigrants from ever attaining lawful permanent residence. These changes cut many needy victims off from VAWA relief. VAWA 2000 created special waivers to some of these bars for battered immigrants. Without these waivers, many VAWA eligible applicants would be denied lawful permanent residence. Examples include new waivers for misrepresentation and crimes involving moral turpitude.

Creation of an Immigrant Crime Victim Visa

Protection for Certain Crime Victims

VAWA 2000 creates a new non-immigrant U-visa for a limited group of immigrant crime victims who have suffered substantial physical or emotional injury as a result of being subjected to specific crimes committed against them in the U.S., including many gender-based crimes.

This new U-visa for the first time will offer access to legal immigration status for

some battered immigrants who had been left out of VAWA's protections. Battered immigrants who can benefit include wives and children of diplomats, work-visa holders, students, and all those abused by their citizen or lawful permanent resident boyfriends. These visas will also help victims of trafficking, rape, sexual assault in the workplace, and nannies who are held hostage.

To obtain the visa, a law enforcement official, judge, or other government official must certify that the immigrant visa applicant has been helpful, is being helpful, or is likely to be helpful to an the investigation or prosecution of criminal activity. If the Attorney General considers it necessary to avoid extreme hardship, the child, spouse or in the case of an immigrant child, a parent may also get a visa. The maximum number of U-visas in any one year is 10,000 for the primary applicants. There is no limit on the number of visas available for qualifying spouses, children or parents of U-visa applicants.

Criminal Activity

Crimes covered include as follows: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

Discretionary Adjustment to Permanent Resident Status

At the Attorney General's discretion, a U-visa holder who has been physically present in the U.S. for three years may adjust his or her status to that of a permanent

resident when such adjustment is justified on humanitarian grounds or to ensure family unity, or when it is otherwise in the public interest unless the U-visa holder has unreasonably refused to cooperate in an investigation or prosecution of criminal activity.

The Attorney General also has the discretion to issue a visa to or adjust the status of the spouse, child, or parent of a child if necessary to avoid extreme hardship.

Conclusion

Since 1990, legal protections for battered immigrant women and children have expanded significantly. VAWA 1994 and VAWA 2000 have effectively brought awareness of domestic violence in immigrant communities. Legislative protections have helped battered immigrant women escape abuse, survive economically, and bring their abusers to justice while reducing domestic violence in their communities. Moreover, these critical pieces of legislation ensure that the children of immigrant parents have the same opportunity to live lives free of domestic violence that VAWA sought to provide to all domestic violence victims. Increased numbers of abused immigrants are coming forward acknowledging that domestic violence is a crime that shall no longer be tolerated. While advocates continue spreading the word, policy makers and national domestic violence organizations are making sure that addressing the needs of battered immigrants is an important part of their national agenda.

Endnotes

¹It is important to note that on December 7, 2000, the U.S. Immigration and Naturalization Service issued proposed regulations that will for the first time formally offer an avenue for some battered immigrant women who have fled domestic violence in their home countries and have come to the United States to receive gender based asylum. Asylum and Withholding Definitions: Proposed Rule, Immigration and Naturalization Service, Federal Register: December 7, 2000 (Volume 65, Number 236) pp. 76588-76598.

² Ibid. W. Blackstone, *Commentaries on the Laws of England*, (1765), 430. Also incorporated into common law was the husband's right of "chastisement" to restrain his wife from "misbehavior," thus creating an environment in

which spousal abuse was condoned or even encouraged.

³ Women and children have constituted approximately two-thirds of the legal immigration into the United States since the 1930s. 1997 Statistical yearbook of the Immigration and Naturalization Service, 24 (1997). When both legal and undocumented immigration are combined, more than half of immigrants are women. P. Hondagneu-Sotelo, *Gender and Contemporary U.S. Immigration*, *American Behavioral Scientist*, 42, 565 (January 1999). According to Congressional records, 3 to 4 million women in the United States are abused by their husbands each year, a figure far higher than the number of men abused by their wives. S. Rep. No. 545, 101st Cong., 2nd Sess., (1990) p30; H.R. Rep. No. 395, 103rd Cong., 1st Sess., (1993) p26.

⁴ Pub. Law 99-639, 101 Stat. 3537 Sec. 701 (a) (4) (c). See 56 *Federal Register* 22635 (16 May 1991)

⁵ Violence against women in the family and society was pervasive and cut across line of income, class, and culture. United Nations Economic and Social Council resolution 1990/15 of May 24, 1990; “[V]iolence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. United Nations General Assembly, Declaration on the Elimination of Violence Against Women, Forty-eighth session February 23, 1994 A/RES/48/104.

⁶ Only thirteen innovative state statutes recognized some form of emotional abuse as bases to issue a protection order. For example, DEL. CODE ANN. Tit. 10, § 945 (supp. 1992) (insulting, taunting, other conduct likely to cause humiliation, degradation or fear); NEV REV. STAT. ANN § 33.018(5) (knowing, purposeful or reckless course or conduct to harass). The Immigration and Naturalization Act’s Battered Spouse Waiver provisions recognize that emotional abuse is a form of spousal abuse. See Immigration and Nationality Act, § 1186 (Supp. IV 1992). The Immigration and Naturalization Service has defined battering or extreme cruelty in its regulations to include but not be limited to “being the victim of any act or threatened act of violence, including forceful detention which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but are part of an overall pattern of violence.” 8 C.F.R. 204.2 (c)(vi).

⁷ Historically, refugee and asylum law have offered discretionary protections to persons who have a “well-founded fear of persecution” if returned to their home countries. Other evidence of discretionary humanitarian protections includes parole power that typically arises when someone needs to enter the U.S. for a medical purpose.

⁸ Full reference of the law is as follows: Violence Against Women Act in the Violence Crime Control and Law Enforcement Act of 1994, Pub. Law 103-322, 106 STAT (September 13, 1994)

⁹ Violence Against Women Act of 2000, Joint Manager’s Statement, Vol. 146, No. 126 Congressional Record, 106th Congress Second Session, Wednesday October 11, 2000, S10192.

¹⁰ Subtitle G, Protections for Battered Immigrant Women and Children, Violence Against Women Act in the Violence Crime Control and Law Enforcement Act of 1994, Pub. Law 103-322, 106 STAT 1953-1955 (September 13, 1994).

¹¹ S. Rep. No. 138, 103d Cong., 1st Sess., at 41-42. (1993).

¹² Staff on the Senate Comm. on the Judiciary, 102d Cong., 2d Sess., VIOLENCE AGAINST WOMEN: A WEEK IN THE LIFE OF AMERICA (Comm. Print 1992) at 26.

¹³ S. Rep. No. 545, 101st Cong., 2nd Sess., at 37 (1990). See also Tjaden and Thoennes (2000: 39): 65.5% of women physically assaulted by an intimate are victimized multiple times by the same partner, and for 69.5% of victims of intimate assault, the victimization lasts for longer than one year.

¹⁴ S. Rep. No. 138, 103d Cong., 1st Sess., at 37 (1993).

¹⁵ S. Rep. 545, 101st Cong., 2d Sess., at 30 (1990); H.R. Rep. No. 395, 103rd Cong., 1st Sess., at 26 (1993).

¹⁶ S. Rep. No. 138, 103d Cong., 1st Sess., at 41-42 (1993).

¹⁷ Id. at 41; S. Rep. No. 545, 101st Cong., 2d Sess., at 37 (1990).

¹⁸ Staff on the Senate Comm. on the Judiciary, 102d Cong., 2d Sess., VIOLENCE AGAINST WOMEN: A WEEK IN THE LIFE OF AMERICA (Comm. Print 1992) at 32.

¹⁹ S. Rep. No. 138, 103d Cong., 1st Sess., at 41 (1993).

²⁰ H.R. Rep. No 395, 103d Cong., 1st Sess., at 26-27 (1993).

²¹ For instance, in the majority of domestic violence homes where women are abused so are the children. Children were involved or present during over half of all domestic violence offenses in 1990. Reports by battered mothers show that the majority of children witness abuse of mothers. Children from violent homes have higher rates of

alcohol and drug abuse. As violence against mother becomes more severe and more frequent, children experience a 300% increase in physical violence by the male batterer. (New Jersey Division on Women Report, 1990). Research suggests that children under age 12 are present in almost half of abusive households (Rennison and Welchans, 2000), and as such may be the direct (e.g. in a sexual assault of a child by a parent) or indirect victims of violence between parents (e.g. when the child witnesses a rape or beating of his or her mother by the father) (Calvo, 1991: 598). Children in violent homes exhibit a greater likelihood of aggressive and antisocial behavior, more traumatic stress, depression, anxiety, and slower cognitive development than children who grow up in non-violent homes (Schechter and Edelson, 2000: 4).

²² H.R. Rep. No. 395, 103d Cong., 1st Sess., at 38 (1993).

²³ In 1996 as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA), Congress added to the Violence Against Women Act immigration protections confidentiality provisions that barred INS or justice department officials from releasing any information about the existence of a VAWA immigration case to any persons including the abuser. This guaranteed that battered immigrants could file for relief under VAWA without their abuser's knowledge. IIRAIRA Section 384.

²⁴ Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), Pub. L. No. 104-208 § 384, 110 Stat. 3009-546, Section 304 of IIRAIRA created a new section 240A of the Immigration and Nationality Act which replaced the former deportation and exclusion proceedings with removal proceedings. In making this change IIRAIRA preserved the VAWA immigration protections for battered immigrants and converted VAWA suspension of deportation to VAWA cancellation of removal. Proceedings to remove an immigrant from the United States initiated by the Immigration and Naturalization Service after April 1, 1997 are removal actions in which applicants may file for cancellation of removal instead of suspension of deportation.

²⁵ Violence Against Women Act in the Violence Crime Control and Law Enforcement Act of 1994, Pub. Law 103-322, 106 STAT 1955 (September 13, 1994), (Section 244(a)(3) of the Immigration and Nationality Act as in effect before April 1, 1997, the effective date of IIRAIRA).

²⁶ This provision in the regulations was criticized in comments on the interim regulations.

²⁷ 8 C.F.R. 216.5(e)(3)(iv)-(vii).

²⁸ 8 C.F.R. 216.5(e)(3)(iv)-(vii).

²⁹ Violence Against Women Act in the Violence Crime Control and Law Enforcement Act of 1994, Pub. Law 103-322, 106 STAT 1955 (September 13, 1994)(8 U.S.C. 1186a(c)(4), INA Section 216(c)(4).

³⁰ Deletion of this extreme hardship requirement was one of the central objectives of VAWA 2000. See VAWA 2000 discussion below.

³¹ Testimony of Barbara Strack regarding H.R. 3083, before the House Subcommittee on Immigration and Claims Committee on the Judiciary, July 20, 2000.

³² Pub. L. No. 104-208 § 384, 110 Stat. 3009-546.

³³ Pub. L. No. 104-132.

³⁴ Pub. L. No. 104-193, 110 Stat. 2105.

³⁵ Pub. L. No. 104-193, 110 Stat. 2105.

³⁶ Pub. L. No. 104-208 § 384, 110 Stat. 3009-546.

³⁷ Qualified aliens are immigrants who were made by PRWORA statutorily eligible to receive some public benefits. Which benefits they could receive and how long they might have to be in the United States before they could receive benefits depended in large part on when they first entered the United States, whether they were living in the United States on August 22, 1996, and whether they could meet the heightened eligibility requirements of certain benefits programs (e.g. food stamps and supplemental security income (SSI)). See, PRWORA Sections 402,403 and 431. Public Law 104-193, 110 STAT. 2262-2266 and 2274.

³⁸ 8 U.S.C. 1641(c).

³⁹ The factors battered immigrants must prove to qualify to receive public benefits under IIRAIRA Section 501 will be discussed below.

⁴⁰ INA Section 212(a)(4)(C).

⁴¹ INA Section 213A(f)(5).

⁴² 8 U.S.C. Section 1631(f).

⁴³ S. Rep. No. 545 101st Cong., 2d Sess., at 36 (1990).

⁴⁴ More than half of abused women stayed with their abusers, because they did not feel they could support themselves and their children if they left (Sullivan, 1992). Among battered immigrants this factor is an even more

significant barrier, and they often report lack of access to money as the single largest barrier to leaving an abusive relationship (Dutton, Orloff and Hass, 2000: 295-6). Battered immigrants still living with their abusers report much higher incidence of economic barriers than the general population of battered immigrant women, including lack of money, lack of employment, and lack of a place to go if they wish to leave. The level of economic resources available to an abused woman is the best indicator of whether she will permanently separate from the abuser (Horn, 1992). Women with greater economic dependence on their abusers experience a greater severity of abuse compared to employed women who are abused (Strube and Barbour, 1983).

⁴⁵ IIRAIRA § 501, 110 Stat. 3009, 3670, amending the PRWORA by adding § 431(c), 8 U.S.C. § 1641 (c).

⁴⁶ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 stat. 2105 (codified as amended in scattered sections of 42 U.S.C.).

⁴⁷ Illegal Immigration Reform and Immigration Responsibility Act of 1996, Pub. L. No. 104-208, 110 stat. 3009, 8 U.S.C. § 1101 et. seq. (Supp. II. 1996).

⁴⁸ Pub. L. No. 104-208 § 501, 110 Stat. 3009-670-671.

⁴⁹ Pub. L. No. 104 B193. For a list of circumstances that demonstrate “substantial connection” between battery and the need for public benefits, see Department of Justice, Guidance on Standards and Methods for Determining Whether a Substantial Connection Exists Between Battery or Extreme Cruelty and Need for Specific Benefits, Department of Justice, AG Order no. 2131-97. Federal Register, December 11, 1997, Volume 62, Number 238, Pages 65285-625287.

The Attorney General issued an order providing examples of the types of circumstances that demonstrate a “substantial connection” between the need for benefits and battering or extreme cruelty. Guidance on Standards and Methods for Determining Whether a Substantial Connection Exists Between Battery or Extreme Cruelty and Need for Specific Benefits, Department of Justice, AG Order no. 2131-97. Federal Register, December 11, 1997, Volume 62, Number 238, Pages 65285-625287. That order includes examples of substantial connection circumstances including when benefits are needed: to enable the applicant to become self-sufficient following separation from the abuser; to enable the applicant to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the applicant; due to a loss of financial support resulting from the applicant’s separation from the abuser; because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty cause the applicant to lose his or her job for safety reasons; because the applicant requires medical attention or mental health counseling, or has become disabled as a result of the battery or extreme cruelty; because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the applicant’s ability to care for her children; to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser; to provide medical care during a pregnancy resulting from the abuser’s sexual assault or abuse; or where medical coverage and/or health care services are needed to replace medical coverage or health care services the applicant had when living with the abuser.

The Interim Guidance published by the Attorney General also recognized that battered immigrant women need access to public benefits to be able to survive economically apart from their abuser. Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Department of Justice. Federal Register, November 17, 1997, Volume 62, Number 221, Pages 61344-61416 at 61370.

⁵⁰ On May 26, 1999, INS issued proposed rules and field guidance limiting the instances in which public charge inadmissibility would be used to deny lawful permanent residency to otherwise qualified immigrants. See, Inadmissibility and Deportability on Public Charge Grounds, 64 Fed. Reg. 28685(1999)(to be codified at 8 C.F.R. 237.14(a))(proposed May 26, 1999). These rules clarified that for public charge purposes the only public benefits that will be considered would be cash assistance and long-term institutional care. The benefits must have been received by the individual applying for lawful permanent residency. Benefits received by a citizen or lawful permanent resident child or family member will only be considered if they were the sole source of income for the immigrant applicant’s family.

⁵¹ Letter to Karen Fitzgerald, Immigration and Naturalization Service, from the National Network on Behalf of Battered Immigrant Women December 18, 2000, p. 9-10

⁵² Congress set the fine at \$1000 in 1996; before then, the amount of the fine had fluctuated. H.R. Conf. Rep., 104-863, 104th Cong., 376 (1996).

⁵³ Revenues were used, in large part, to fund detention centers for illegal and criminal aliens. S. Rep. 105-48, 105th Cong. (1997).

⁵⁴ Deferred action status is an agreement from INS not to take action to deport the battered immigrants while they waited until they could apply for and receive lawful permanent residency.

⁵⁵ H.R. Rep. 105-845, 105th Cong. (1998).

⁵⁶ Immigrants who entered lawfully and were spouses or children of U.S. citizens who violated the terms of their visas were allowed to continue to adjust their status within the United States.

⁵⁷ The term "green card" is the common term used by non-lawyers to refer to the immigrant visa awarding lawful permanent residency status. The terms green card and lawful permanent residency will be used interchangeably in this paper.

⁵⁸ H.R. Rep. 105-845, 105th Cong. (1998).

⁵⁹ INA Section 204(a)(I)(A)(iii)(II); INA Section 204(a)(I)(A)(iv)(II); INA Section 204(a)(I)(B)(ii); and INA Section 204(a)(I)(B)(iii)(II). The extreme hardship requirement was deleted from self-petitioning by the Violence Against Women Act of 2000, Pub. Law 106-386 (October 28, 2000).

⁶⁰ Self-petitioners are granted work authorization and deferred action status that offered some protection but no permanent legal immigration status.

⁶¹ Violent Crime Control and Law Enforcement Act, Pub. L. No. 103-322, 108 Stat. 1796, 1993-1055 (1994) (codified at 8 U.S.C.A. Section 1554). Section 40221.

⁶² IIRAIRA Section 350, INA Section 237(A)(2)(E).

⁶³ Women and children have constituted approximately two-thirds of the legal immigration into the United States since the 1930s. 1997 Statistical yearbook of the Immigration and Naturalization Service, 24 (1997). When both legal and undocumented immigration are combined, more than half of immigrants are women. P. Hondagneu-Sotelo, *Gender and Contemporary U.S. Immigration*, *American Behavioral Scientist*, 42, 565 (January 1999). According to Congressional records, 3 to 4 million women in the United States are abused by their husbands each year, a figure far higher than the number of men abused by their wives. S. Rep. No. 545, 101 Cong., 2nd Sess., (1990) p30; H.R. Rep. No. 395, 103rd Cong., 1st Sess. (1993) p26.

⁶⁴ In some countries, shelters and services for survivors of domestic violence may not exist. In other countries, laws against domestic violence may be greatly under-enforced, either because the laws have only recently been passed or because law enforcement fails to respond to domestic violence reports. See also Uma Narayan where the author describes the ostracism of Indian women who return home after having left their abusive husbands.

⁶⁵ Citing Nilda Rimonte and giving the example of Asian women at a Los Angeles Battered women's shelter who refrained from reporting domestic violence due to a need to "preserve the family honor."

⁶⁶ The Violence Against Women Act of 2000, Pub. Law 106-386 (October 28, 2000) included amendments that allowed spouses of U.S. government employees and military members who were abused abroad to file self-petitions.

⁶⁷ *Pena v. Kissinger*, 409 F. Supp. 1182 (S.D.N.Y. 1976).

⁶⁸ Noting that the effective provision of legal assistance and services to battered immigrant women requires that advocates, attorneys, police, and courts receive training and education on domestic violence issues.

⁶⁹ Non-immigrant visas are usually awarded to certain categories of workers and students who are granted permission to live and work or go to school in the United States for a limited period of time.

⁷⁰ The Violence Against Women Act of 2000, Pub. L. No. 106386 as of 10/28/00.

⁷¹ The Violence Against Women Act of 2000, Section by Section Summary, Vol. 146, No. 126 Congressional Record, 106th Congress Second Session, Wednesday October 11, 2000, S10195.

⁷² This list includes many, but not all, of the future legislative changes that will be needed.

⁷³ For a more detailed analysis of all the immigration provisions of VAWA 2000, please contact NOW Legal Defense and Education Fund at (202) 326-0040.

⁷⁴ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105, Section 431 as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Publ. L. No. 104-208, 110 Stat. 3009, codified as 8 U.S.C. 1641(c). Thus, use of post August 22, 1996, public benefits cannot be considered by INS when it makes public charge determinations.

Chapter 3: The Battered Immigrant Women's Perspectives

Methodology and Sample Selection

To ascertain diversity of respondents in terms of ethnicity, national origins, and cultural groupings we targeted for data collection states with large numbers of recent immigrants and with diverse immigrant communities who reside in urban and rural areas. Thus, California, New York, Florida, Texas, Michigan, Wisconsin, and Iowa were selected as sites for data collection, and various social service agencies that provide services to immigrants in these states were identified. The directors of the agencies were contacted, and those that agreed to participate in the study were given sets of questionnaires and instructions concerning the interviews. In addition, social service providers from other parts of the country who attended the 2000 Annual Meeting of the National Network on Behalf of Battered Immigrant Women were asked to participate. Several providers from New Jersey, Ohio, and Washington who expressed interest in participation were added to the sample.

The bilingual social service providers in the participating agencies contacted battered immigrant women clients, with whom the providers had previously established helping relationships and trust. The providers asked the women if they were willing to be interviewed and explained the research's purpose. The providers' relationship with the immigrant clients was an important consideration in the data collection phase. Immigrant abused women are commonly very hesitant to confide in strangers and are particularly reluctant to talk to strangers about both domestic violence and immigration related problems. Therefore, the optimal way to receive the immigrant women's consent to participate and obtain valid responses was to have the providers interview their

immigrant clients. The providers were not only familiar with the immigrant women's problems but also shared their language and culture. This bilingual staff often conducted the interview in the women's native language.

The interviewees (n=137) were immigrant women who sought help related to their immigration or domestic violence problems. As such, they are not necessarily representative of all battered immigrant women but represent a sub-sample of this population--those who have overcome their fear to reveal the abuse and who have sought help. Further, they are not representative of the subgroup of immigrant women seeking help, as they have been recruited through requests for interviews by organizations that agreed to participate in the study. There were several organizations, that for practical reasons did not wish to participate, could not afford the resources or time to conduct lengthy interviews, or were not successful in identifying battered immigrant women who were willing to participate. The sample is therefore a convenience sample of battered immigrant women who sought help and does not necessarily represent the universe of battered immigrant women. The value of the results reported in this study lies in providing informed descriptive accounts of the kinds of problems encountered by immigrant women in their appeal for justice rather than in any enumeration of the results.

The interviewers worked in or were affiliated with various non-profit social service organizations. They were bilingual employees or volunteers who either had training in social services or, in some cases, were themselves survivors of domestic violence who had become battered women advocates. The questionnaires, that were in English, were sent ahead of time to the agencies so the interviewers could become familiar with their content and could prepare, if necessary, to conduct simultaneous

translations. Most interviews were conducted in the first language of the interviewees, and they included the following languages (as these were reported by the interviewers): Arabic, Armenian, Bengali, Farsi, French, Haitian, Hindi, Japanese, Malaysian, Portuguese, Russian, Spanish, and Turkish. English was also used in some interviews in part or throughout the interview, if the woman being interviewed was well versed in English. The interviews lasted between 45 minutes and two and one-half hours. They included closed- and open-ended questions about the women's demographic characteristics, history of violence in their home country, circumstances of their arrival in this country, and experiences with abuse and violence in the U.S.

The immigrant women were offered a modest pay for their time. The interviewees responded to the interview schedule most commonly in one session, but a few requested to complete the interview at another time. Some of the women chose not to answer certain questions, because they felt uncomfortable about describing issues they considered as private. All their requests were honored. All interviewees were paid for the full interview, even if they did not answer all the items or if they could not come for a second session to complete the interview. Yet despite a long and extensive interview schedule, most women responded to many questions in detail. Other questions were only briefly addressed, if at all. Translation problems invalidated some of the responses or resulted in partial responses. For these reasons, the results for many items of the interview schedule present only the range of responses rather than a quantified version of the responses.

Results

Characteristics of the Women

The women came from 35 countries in different parts of the world: Armenia, Bahrain, Bangladesh, Brazil, Colombia, Costa Rica, Egypt, El Salvador, Former Yugoslavia, Albania, Germany, Great Britain, Guatemala, Guyana, Haiti, Honduras, India, Iran, Iraq, Israel/Palestine, Japan, Latvia, Lebanon, Mexico, Morocco, New Zealand, Nicaragua, Peru, Syria, Trinidad, Turkey, Venezuela, Vietnam (South), and Yemen. The religious affiliations of the women were as follows: 36% Catholic, 22% other Christian, 22% Muslim, 5% Hindu, and 1% Jewish. Those who were Christians described themselves as Adventist, Armenian Apostolic, Assyrian Christian, Baptist, Jehovah's Witness, Lutheran, Mormon, Pentecostal, Protestant, or Roman Catholic.

The age of the women ranged from 19-56 years old, with a mean age of 32.5 and median age of 31. The marital status of the women in their home country and in the U.S. was as follows:

Marital Status in country of origin and in the U.S.

	Country of Origin	U.S.
Married	45%	45%
Never married	43%	6%
Living with someone	2%	18%
Separated	2%	23%
Divorced	4%	18%

Most of the women (86%) had children. The mean number of children was 2.4, and the median was 2 children. The educational level of the women ranged from 5-16 years of education, with a mean of 11 and a median of 11.6 years of education, excluding one woman who stated she had no education at all. The English proficiency of the interviewees was as follows: only 27% read English well, 46% had a rudimentary or

some knowledge of reading, and 27% could not read English. Only 26% were fluent in speaking English, 48% had some ability to speak, and 25% could not speak the language. One-quarter of the women wrote English well, 37% had some knowledge of writing, and 38% could not write English at all.

The immigration status of the victims/survivors was as follows: 19% were naturalized citizens, 34% were lawful permanent residents (LPR), 9% had filed and approved VAWA self-petitions, 5% had work visas, and about one-quarter (24%) were undocumented. The remaining 9% had other types of temporary visas (e.g. tourist or student). The immigration status of their abuser constituted the following: 11% were born in U.S. and are citizens, 34% were naturalized citizens, 32% LPR, 4% Amnesty LPR (were undocumented and received Amnesty in 1986), and 15% were undocumented. The remaining 4% had temporary visas (work, tourist, student).

Over half of the women (58%) had some type of job or employment. Most often they were employed in some kind of unskilled work, and domestic work was the most common type of work reported (15%). Almost half of the women (42%) had no employment. Over three-quarters of the husbands/partners (78%) were employed. About one-quarter of both men (27%) and women (26%) sent money home. Over one-third of the women (39%) either used or planned to use public benefits.

Circumstances of Meeting and Marrying the Abuser

Respondents were asked to describe under what circumstances they met their spouses. Two-thirds of the women self-selected their spouse, reporting to having met the partner in their home country through family, work, friends, church, geographical proximity, or through immigrant community resource organizations in the U.S. One-

third of the sample met by arranged marriages, typically through parents or relatives, often meeting the spouse days or weeks before the marriage, as the following women stated:

Yes, in five days, between knowing/hearing about him and setting the date of the wedding, we were married. I had not seen him before the wedding day. My father told me that he has drinking problems but God willing he will change after marriage. I did not want to marry him, but I had no choice.

Yes [I was pressured to marry], I refused to marry him. But my parents thought it was for my own good. Nobody heard my refusal.

One woman was forced to marry while in a refugee camp as a result of being the only woman in her all-female family unit of marriageable age:

Yes [I married] because of my family in the war. We were separated; one brother escaped to Sweden, one eldest brother disappeared in Turkey on his way to Greece. One brother had fled to Lebanon. Me, my mother and my youngest sister, through the Allied Forces and after staying 6 years in Saudi Arabia, were moved to Guam with some others, around 20 people to Guam/U.S.... I was 20 years old in Guam, U.S. when groups of other refugees arrived. One day one of the group leaders came to my mother and said, you are two women and (I had my younger sister who was 5 years old) and she [the victim] has to get married to this man he chose. We did not know him.

Many women reported marrying young, typically 17 to 21 years of age, some as early as 13 or 14 years old:

I was 13 years old when I met him in Mexico; he was a neighbor. In 1964, we married, a year after we started the courtship.

Yes, we had no opinion or choice. Whatever our parents would say, we had to do; we were very young [15 years old].

Women stated that they also wed to escape on-going abuse they were suffering in their parents' home. They viewed this avenue as their only viable means of escape, as these responses indicate:

Yes, my older brother did sexual abuse since I was little so I was desperate

to get out of my house. I went to a Catholic convent for 8 years, and I met the man who now is my husband.

Yes, I was abused by [my] father physically. The day I left the house, and was proposed by [my soon-to-be] husband, my father beat me so badly I accepted the marriage proposal, in attempt to get out of the violence I was living in at home.

The impetus to marry was generally instigated by outside forces, primarily from family, peers, or cultural dictates of the community. Of the women who stated they chose to marry their mate (2/3 of the sample), over one-quarter (27%) felt pressured to get married. Pressures consisted most commonly of being perceived relatively old ("being old" ranged in the responses from age 22 to 32). Pregnancy and financial instability were also cited as pressures for marriage. Although some women claimed they married out of love, the following responses illustrate the salient impact of family and community expectations or traditions in decisions to marry:

Yes, there is always pressure. My friends were all getting married and I wanted to get married too.

People thought I was too old at 22 not to be married and that I was ugly that is why no one was marrying me.

Yes – I was getting old in my community. Everybody else was married, and I was still unmarried at 26.

No [we weren't pressured to marry]. We followed our traditions. Our families decide for us.

I was the oldest girl in my family, and my younger sister already received a proposal, and my family felt that I was holding the marriage up since no one who had seen me in the past had wanted to marry me. There were 15 other men who had seen me and rejected me, so there was a lot of pressure to marry.

The respondents were also aware that it was crucial for women to marry young, deflecting the possibility of a future without a man, and avoiding the label of an "old

maid” or “spinster”. This often meant that they compromised and settled for second best options to marry:

Yes, I was 32 years old. I was considered an old maid. I was already too late to get married, this pressured me, although he was much older than me and divorced.

No, in spite of him being almost 20 years older than me, not handsome, but highly educated in Art, I thought he [could] never be bad... In fact, my brothers were against this marriage, because he was a stranger and I am the only sister.

The Circumstances of Arrival to the U.S. and the Abuse Experience—General

The reasons the women reported for coming to the U.S. were the following: One-third (34%) followed their spouse, and over one-eighth (13%) married a U.S. citizen, most (n=10) of whom were military men. About one-fifth (16%) came for family unification. A substantial proportion of the women immigrated for economic reasons: 29% to improve their economic condition, and 12% came to work. Another significant proportion fled violence in the home country (18%) or political repression (10%).

The range of years the women have lived in the U.S. was from 1 to 30 years, with a mean of 8.7 years and a median of 6. The length of time they lived with the abuser was between 1 and 30 years, with a mean of 7.6 and median of 6 years. From the women's responses to specific items, it became evident that the division of labor in the marriage was clear-cut: women were restricted to the role of being a wife and a mother. They were solely responsible for housework and childcare. In a minority of cases (17%), women were given responsibility for grocery or childcare related shopping. Most often, they did not have access to a car or did not have a driving license (60%). The men were responsible for gainful employment, money transactions related to the family, and in a

minority of cases (13%), for work around the house.

The women reported being subjected to a lengthy period of abuse and battering. It ranged from 6 months to 25 years, with a mean of 5.5 years and median of 4 years of battering, and included physical, mental, and sexual abuse, as well as verbal assaults and threats of reporting the woman to INS, deporting her or taking away the children. The abuse also included various tactics of isolating the woman to perpetuate her dependency on the abuser (e.g., she was not allowed to go to English classes, to school, to have employment, to be in touch with friends or family members, etc.). The women reported severe mental and physical harm resulting from the abuse, including depression, withdrawal, numbness, anxiety, and various physical symptoms of battering. About one-third of the women (34%) required hospitalization to treat the injuries that resulted from the battering. Almost half of the women (46%) reported being battered while they were pregnant, with the abuser often trying to hit, kick, or otherwise interfere with the pregnancy. Pregnancy was a cause of conflict and battering, because the woman did not want another child, did not want to have an abortion, or because the abuser believed that the father was someone other than himself. Some women suffered miscarriages or required hospitalization as a result of the beating.

The battering and abuse the women sustained took place in all parts of the house, particularly in the bedroom or kitchen. It also occurred in clinics, cars, public areas, and various offices. It happened in front of family, children, neighbors, and in public. Often the husband's family was actively involved in abusing the woman. Very often other members of the husband's family or circles of friends participated in the abuse: his brothers, sisters, sons from previous marriages, relatives, mother, in-laws, friends of the

husbands, or girlfriends.

As will be discussed later in detail, for those who came to the U.S. with a spouse or partner, the move had an adverse impact on the level of violence. Following migration to the U.S., for half of the women who came with a spouse, the level of violence increased, and almost one-quarter (22%) stated the violence began. For one-fifth (20%) of the women, the level of violence stayed the same, for 6% it decreased, and for 2% it stopped.

The women often could not explain the reasons they were subjected to violence. In response to a question about the reasons their abusers provided for their violent behavior, the women cited their failure to obey or fulfill the “good wife” role: “my being a bad wife and mother,” “I was not behaving like a normal wife,” “my bad behavior and stupidity,” “my being a bad woman,” “my not being a good wife,” “my ill-mannered and bad behavior,” “because I was not affectionate,” “I needed to do what he told me to do, when he told me to do it,” “I need to present the ‘best wife’ image for an officer’s wife.”

Other excuses the women reported as excuses men used for their abuse included issues of jealousy, inability to control anger, lack of communication, abstinence, provoking the husband, the woman becoming liberal, or expectations for complete subordination. The words of one woman were telling: “He does not want me to talk back.”

In general, the women revealed that there were very few avenues or tactics they could employ to stop the abuse. They tried every possible tactic, from avoiding him to being quiet, to involving family or friends, to calling the police, or leaving the house.

Calling the police or leaving, however, was not perceived as an option for some of the women, as discussed later.

Immigration Status as a Weapon by the Batterer

Respondents were asked if the abuser ever used their immigration status against them. Three-quarters (75%) of the women replied in the affirmative. They described the following acts by their husbands/partners:

- Threats to call INS or to report her status (40%)
- Threats about deportation (15%)
- Threats to withdraw petition or interfere with the naturalization process (10%)
- Threats about taking away the children (5%)
- Used immigration status to humiliate/degrade her (5%)
- (No threats 25%)

Not uncommonly, the abuser will convince the immigrant woman that she has no rights, that she is not entitled to any rights in this country, and that he can cancel her status at any time if he so wishes. Because the husband/abuser is responsible for filing for his wife, one undocumented woman stated, “He makes threats to report me to the INS if I don’t do what he wants.” Victims reported that their abuser also made threats to withdraw the petitions already filed on the women’s behalf or to tell INS officials that the women married for the sole purpose of legal residency. Many respondents related that the abuser would use their immigration status to jeopardize their custodial rights to the children, or outright threaten to take away the children. The following comments illustrated such dynamics at work:

When he was drunk, he would tell me he was going to take my baby away from me when the baby was born; he said anyway you don’t have any papers.

He said that he was going to take my kids away; because I didn’t have any papers and that I didn’t have any rights.

He threatened to take the kids away knowing I was undocumented and would be afraid and submissive to his wishes.

He said that I was going to be deported, that INS would send me to Mexico and they would take my children. He made fun of me about my status.

He would tell me I did not have any rights in this country. Yes, he threatened to take our children – and he finally did!

In one instance, a victim was forced to trade custody of her children for a green card:

He makes threats to report me to the INS if I don't do what he wants. We went for our immigration interview, and he divulged he had been previously married and divorced so that prevented us to complete the interview. It was continued for evidence. Plus before going he made me sign in Spanish a notarized agreement giving up the kids in return for green card.

For a battered immigrant woman who does not have lawful permanent residency status, divorcing her husband is perceived as losing her work authorization and jeopardizing her ability to sustain herself financially.

He wants me to leave the U.S. and send me home to an unknown fate. If ever I challenge him to stay here, he will divorce me; I will lose my green card and will not be able to financially survive.

About one-tenth of the women detailed that their abusive spouse promised to file a petition for them but never acted on that promise. Reasons often cited were that the woman would not stay with him. Other men used the filing of immigration papers as a way to expedite marriage. Following their marriage in a foreign country, they would then postpone the actual filing process.

Life in the U.S. for Battered Immigrant Women

Optimistic expectations of coming to the U.S. to make a better life for oneself and one's family were reiterated numerous times by respondents. Happiness was described

as having the ability to live a normal life--loving one's husband and children, receiving love and respect in return, creating opportunities for financial success, and establishing a sense of stability and longevity in a new environment. These expectations, however, often drastically changed once the couple entered a new stage in their relationship--becoming married, moving in together, becoming pregnant, having children, and significantly, the move to the U.S. These events create stresses for the couple that dramatically altered the quality of their interactions. Some respondents described their expectations about their relationship and how the occurrence of various life changes catalyzed their spouse's violent behavior as follows:

The first years of our marriage were normal, we just had normal fights, but after I got sterilized from my last daughter, the problems started and I began to suffer from domestic violence.

We had a good relationship, before I was happy with him but with the time that we live together as a couple, I discover one day he has a big problem with drug addiction.

I feel insecure with my husband because he thinks my first daughter is not his, this causes many problems between us.

At the beginning when we met each, other I had a feeling my husband gave me the impression he was a nice man. After we got married, he changed completely into a different person. The things that don't make me happy with him, he always argues.

Wanted my husband to respect me. I wanted to study and wanted someone who could give me advice. I thought he would be my friend.

We would talk together, do things together. However, he wouldn't let me go to school, wouldn't let me go to the doctor when I was pregnant, wouldn't let the children go to the doctor when they were sick. We couldn't talk together.

Many women described their relationships as being fraught with difficulties because of the constant interference and abuse they suffered at the hands of their

husband's family. Obligations to the family can place enormous strain on the immigrant couple, particularly in a new country where the surrounding environment is unfamiliar or vastly different from that of the home country. For one woman who worked in the family business, her husband's abuse was tightly interconnected to the working relationships she had with her in-laws. Her in-laws consistently encouraged, instigated, and at times participated in the husband's violence towards her. This experience with in-laws is a characteristic of many abusive relationships:

We worked as a family, because we owned a pharmacy so there was always arguing in the house... It was almost always his mother's interference that caused arguments.

My problem with my husband is not him, but his family, his mother (father dead), brother and sisters. Whatever they tell him about, he believes them. His sisters gossip about me, lie about me, and he believes them and storms at me and abuses me, physically and emotionally by cursing me and using bad words against me. We have learned that our expectations in life are to get married, have children and form a family. My happiness is to have a peaceful life and children have an education and a life better than me. What causes unhappiness is that I am concerned about my children growing up in an abusive family. Also, his business is in his brother's name, the house. He spends not much on his own family, threatens to take another wife, leave me penniless.

Yes, my husband would hit me, and he was too jealous. We lived with his family and that made it worse, because his mother did not like me. They enjoyed seeing us fight all the time and whenever he hit me, they made it seem as if it was all my fault.

It was very common for the women to place the welfare and happiness of the children as most important and above their own happiness and ignore the abuse they endured in the relationship. As their responses indicated, they were often more concerned about the effect that living in a violent household would have on their children's lives than on themselves:

I don't have personally any expectation except for my children to get an

education and have degrees and good work. My happiness is their happiness.

Worry about future, worry about my children, how to feed them. I leave them until late I come to see. My children's happiness only makes me happy. Nothing else is important to me.

Respondents also expressed the desire to nurture the well-being of their children by becoming financially and emotionally independent from the abuser:

I dreamed all my teenage years to get married and be the princess of the palace. Now my expectation is to complete my education, get a well-paid job, and take care of my children.

First the children come first. I also want to make good money, to be financially independent. I don't like to have somebody to control and pressure me. That makes me unhappy.

Expectations--I wanted a marriage that lasted a lifetime, and I wanted everything to work out smoothly. What makes me happy--spending time with my girls and remain here in the U.S. unhappy--having to be separated from my girls, not having a job.

Often, differing expectations between the husband and wife became pronounced by immigration as each partner was exposed to various facets of an open, diverse, and seemingly boundless new country:

I expected a different life than that of the home I had come from. I had illusions of a teenager. I wanted a beautiful family and a happy marriage. Happy--my greatest happiness have come through 1) having become legal 2) having found God. Unhappy--the thoughts/memories that happened between my husband and I. I thought that I was unable to fulfill my dreams.

I had a lot of plans for the family, the perfect family, but he didn't. He had a different lifestyle; he was dedicated to his friends--bachelor's lifestyle (abused drugs and alcohol). What made me happy--the well-being of my children, find the perfect family still. Unhappy--the violence, irresponsibility, instability, and having people around that have addictions.

These sets of incongruous and fragmented expectations were mirrored in the women's descriptions of the conversations and activities they engaged in with the abuser.

Very few reported having positive interactions with their respective husbands. Women often stated that at the beginning of the relationship, the couple went out to the movies, restaurants, dance clubs, and visited friends and family. As time went on, these activities ended altogether. Others explained they never went out with their husbands and were discouraged or forbidden to do so. Women who reported going out with their husbands stated that these trips were usually family excursions with the children or for visiting family. In terms of conversation and discussion, many women revealed that their husbands refused to communicate with them at all. The inability or disinclination to express feelings of love or concern for their respective partners was viewed as a major failure for most women:

I could never talk to him about nothing, because he would get mad. I would ask how his day was--he would say it was not any of my business. He didn't want me to find out where he worked or how much he made, nothing, nothing.

He wouldn't speak about anything. He was always angry.

He is not very communicat[ive], it is very hard for him to communicate. He comes home and watches TV.

Others described their conversations with their respective spouses focused on their spouse's dissatisfaction with work, the workplace environment, the children's needs, and his future dreams and goals. A typical response listed money, the lack of it or the desire for more, as a topic of conversation as well as a source of adverse effect on the family, an example of which is below:

He talks about making a lot of money, make us happy. When he does not have money and spends a lot on women and other things, he becomes very angry with the children and me. He feels depressed.

Emotional abuse, which eventually leads to physical abuse, was a common

feature in the women's responses, "His words were only hitting," "I did not exist for him," and "He always yells at me, and if something is wrong, he doesn't tell me he just hits me." Some women elaborated as follows:

We communicate very little. He does not talk about his work, feelings, or thoughts, and that causes a lot of problems in the relationship. He gives me the silent treatment when something bothers him.

He is a successful business owner (taxicabs). He is a miser. He does not want to spend money on home. He would always tell me how wrong I am about everything--continuously criticize me. I should not speak to the neighbors. I draw attention of others because I am beautiful.

He would talk about his ex-girlfriends, bars, he likes money too much, wanted to make a million dollars a year. He would not talk about his work or his feelings. All he would do, especially when I was/am sick (leukemia) on purpose he would emotionally abuse me by talking about his girlfriends, how he had children from them.

Nothing--he grumbles about the way I look, the way I walk and everything I do for him is wrong and bad.

Some respondents emphasized how interactions with their husbands were often conflicting or ambiguous in nature, giving kind and considerate messages at first but then turning abusive:

His work, making money, promises me that he's going to buy for me everything but does not give me money to spend, except for groceries, and then he asks me for the bills.

He talks to me about his work and his love for the children, but on the other hand, he abuses me.

Some women reported that the increase in emotional, sexual, and physical abuse coincided with immigration-related activity: upon entering the country, filing immigration papers, accessing social welfare systems, and so on. Because of the woman's immigration status (as undocumented, pending work authorization, etc.), the abuser would readily manipulate his control over the relationship and the family, as the

following responses indicate:

This relationship was forced. He used my immigration status against me. He would tell me that without him, I was nothing in this country. I did not love him. He coerced me into the relationship.

It was really good in the beginning, and then he lost his first job and things started getting really bad. It has not been very happy at work, and that is why he would take things out on me. We used to be happy. He would always keep the money and occasionally would demand a lot of sex, but then after a few years, he really started beating me up. It also coincided with when I had to file his immigration papers.

The combination of marriage and migration often creates a living situation where the woman arrives in a new country with few family members and friends, invariably finding herself devoid of a support system and without the familiarity and fluency of the native culture. Given this type of isolation, the ability to deal with significant changes in her husband's behavior, as well as finding alternatives for safe harbor during violent episodes, becomes substantially diminished.

The Impact of the Move to the U.S. on the Marriage

The majority of women who came with their spouses reported that the transition and move to the U.S. altered the dynamics of the relationship, specifically their respective husbands became increasingly abusive, and the physical and emotional battering became more conspicuous and severe. As some women explained:

Yes, it affected because I don't have family here, so he tells me that I don't have another choice but to stay with him.

Yes, in Mexico he had more respect for me, because I have my family there but here I'm alone without any family.

Yes, the relationship changed from verbal to [physical] abuse. The relationship had gotten bad in Mexico and continued the same in the U.S. The abuse changed from verbal to physical.

Yes, very much because I did not find anybody to stand with me.

Everything I had to face myself.

Yes, he took me from Colombia to get married here with him; I was a prisoner for 2 years until I found out months later that he was a homosexual. When I talked to him about this, he tried to kill me with a knife in front of my daughter.

Yes, because it go worse. I believe when I came to the U.S. my husband treated me more like a kid. I do not have control over my life.

Yes, if he were in Syria, he would take into consideration my parents and would not act abusively as in U.S.

It has gotten worse. Now he takes out all the frustration on me.

Newfound interests, such as the abuse of alcohol, drugs, gambling, and women, often accompanied these behaviors. In the words of the women:

Yes, got worse [after the move to the U.S.]. He began to use more drugs and not worry about us. He never worried whether the children ate or not. All he worried about was the drugs.

Yes, he would go party more and drink more because alcohol is cheaper here.

If I want to compare it to Iraq and the U.S., of course the move has affected us. In Iraq we have family, parents, relatives. Here there is drinking and open society, especially for men. They are badly affected.

The stress of doing a doctorate got to him and that changed his behavior. Plus people are so loose here that they have no problem about having affairs, and that destroyed our relationship.

Yes, he changed very much. He became estranged from us. He stopped spending money on us. He would leave home for quite some time and come back.

When I came to U.S. I found out he was going out with other women. This created problems for us.

The open or permissive society of the U.S., with an absence of accountability (few relatives or family to report the husband's negative behavior or intervene on the woman's behalf), exacerbated the immigrant woman's powerlessness, dependency, and

vulnerability. As some women explained:

Yes, he has had more power to manipulate in the U.S. because I am illegal and depended on him and I didn't have any rights here.

Yes, in Mexico there was physical and verbal abuse as same as here in the U.S., but here I don't have any family. The only family is my children. I feel very lonely. I only take the bus and with five children is very difficult to travel. He also threatens me more if I get outside help.

The arguments between the couple that often led to abuse included all those found in cases of woman battering: jealousy, infidelity, drinking or substance abuse, money issues, child discipline or education issues, and various attempts to isolate, control, dominate, or degrade the woman. There were also distinct issues created by the move to the U.S. that caused tension in the marriage or exacerbated the abuse. For instance, many of the women reported that the husband's sending money to his family in the home country precipitated arguments or fights, as did the wife's sending money to the family that she has left behind. One woman explained it in this manner:

He sends a lot of money to his family. That's ok, but he does not spend money on his own home.

Other issues included the husband's inability to provide for the family in the new country, or his insistence that the wife, although now in the U.S., continue to be a "traditional woman and never ask him about anything" or "a very traditional Latina wife, waiting on him hand and foot and never raising my voice on him".

Some women described the abuse or change in their husband's behavior as triggered by cultural differences between their own home country and the U.S., particularly the new liberties practiced in the U.S. In the words of the women:

He started to go out to bars, I don't know when, to drink sometimes. The outside life has affected him, and he became more violent and confused.

He changed drastically when we moved to this country.

He was a family man in Iraq. Here in U.S. he was affected a lot from freedom of women, and things which he had never seen in home country.

In the U.S. he suffered jealousy attacks and saw me prosper--he did not like that.

Some women, who moved away from a hostile family, experienced an easier life in the U.S. They realized that violence against women is against the law or became aware of the social concern and availability of help for abused women. This had positive effects on the relationship:

I think my husband is under influence of his family. Even a few days before marriage, we almost canceled our ceremony because of problems with his family- he believes his family and they don't like me so I suffered... Actually here is better because they are not here-his mom lived with us for a long time, and I had a hard time.

It's the same problem, but I have more help here from the state financially. My voice is heard here more than in my home country.

Most of the women reported enduring abuse for long periods of time because of their desire to remain in the U.S., in hopes that their husband would change their immigration status to legal. Waiting for legalization of their status becomes an ultimate form of dependence on the husband. She is unremittingly abused as he keeps her on a visitor's visa or refuses to file papers for the wife, because "I would not obey him in all things." Indeed, the immigration status provided men almost complete control over their respective spouses:

What prevents me from leaving is the immigration status. I need my green card.

Yes, at the time (of my marriage) my parents were in Lebanon. I had nowhere to go. He would take me to Lebanon and drop me there. I had a Lebanese passport and a visitor's visa [for the U.S.] I would not be able to come back to the U.S. For 5 years until my divorce, I did not tell anything to my parents particularly the truth about my marriage. I had to go and apply again for a visitor's visa to visit my U.S. husband, which meant that

I had to go to Damascus, Syria, because there is no consulate for visas in Lebanon. Thus, he really abused me.

Work, Gender Roles and Abuse: Their Effect on Immigrant Women

Finding suitable employment, or any job at all in some cases, presents major difficulties for immigrant families. Most arrive in the U.S. with the notion that work is plentiful, that economic opportunities are boundless, and that a person's success is limited only by the amount of effort he or she wants to invest. The expectations for sustaining a family by working traditionally cast the male of the household as the breadwinner. The wife, in turn, is expected to support and nurture his working activity, employment, or professional career to the extent that his failings reflect poorly on her abilities to cultivate the kind of environment that would contribute to his success. Yet the difficulties of finding work or an employment suitable to one's skills constitute a serious stressor on the immigrant family and the marriage. Through immigration the women are also deprived of supportive community, extended family or a social network that could help them during times of financial difficulties. The respondents described these problems associated with the move to the U.S. as follows:

He did not work, stayed home, which made him crazy.

Yes, we had financial problems, effects. Transportation problems. Appropriate work. Nature of work--if you are an engineer and working at a gas station.

If spouse cannot find work, people criticize him, embarrass him. Also, if a spouse did not have work in home country, family or relatives would extend him money and help him. Here in U.S., there are many bills to pay; there is no one to give you a hand. One gets embarrassed.

Increases stress on the family. Sometimes, it reflects on the wife, especially if the husband and wife are not in a good relationship, she is blamed for his failure, unable to build his future. Both sides, financial burden worries, increases pressure, nervousness.

Unemployment increased pressure on me--being blamed for failure. Financial problems would lead to family problems.

The dissatisfaction, failure, disappointment, not being able to meet one's economic expectations in life switches the burden on the wife. She becomes the reason of his failures. She is blamed all the time. She consistently tries to please him, it doesn't work. She gets all the frustration and all kinds of abuses.

On the other hand, for women working outside the home, their absence is often seen as a threat to the "natural order" of the gender hierarchy and as a potential subversion to the patriarchal social structure. As well, women reported that although they worked outside the home, they controlled little to none of the money they earned and were subject to other types of abuse and domination by their husbands. These women explained the effects of working:

Yes, well, he is jealous about my work, because sometimes I come home late, and he thinks that I'm not working at that time.

He didn't like me as a woman to have a say in anything. He felt humiliated.

I worked in his gas station for two years for free; what he would tell me was that all the money was going for home expenses.

He wants to control every penny that I spend, I work too, but he is very manipulating.

Several interviewees stated that the move interfered and distorted the traditional gender and parenting roles to which they were accustomed:

I would like more feedback about the marriage, sometimes when one of the spouses does not work, the other will take advantage... by abusing the spouse.

My two sons have told me that I don't have the right to discipline them, because [their] dad is the only one who works for them.

A significant number of women recounted that following the move to the U.S.

they noticed that the husband/boyfriend or a member of the family had abused the children. Some interviewees detailed their experiences:

Many times when I got home from work I saw my two children crying, because my ex-husband was hitting them with a belt and told me many times that if I say something to him, he would hit me too.

My father-in-law raped my little daughter about 1 year ago; we had big problems because my husband told me that my daughter was lying, that his father was innocent and that he would never believe what my daughter was saying.

Women revealed that some of the major issues that caused arguments in their relationship were related to the husband's drug and alcohol abuse, inability to find work or meet financial obligations, demanding control of the wife's decisions, actions, or spending habits, and sending money home from already strained economic resources. Other difficulties consisted of the interference of in-laws in marital affairs, of differing opinions concerning future childbearing and child rearing, and of the husband's abuse of the children.

Immigrant Women, Their Families' and Communities' Views on Domestic Violence

To understand the actions, omissions, and reactions of battered immigrant women to the lengthy and often severe abuse they experienced, it is important to explore their views on domestic violence. Their belief systems regarding familial obligations, gender role division, and the centrality of men in their tradition, religion, or ethnic group culture can also shed light on the women's strategies of responding to the violence.

The majority of the women (65%) stated that in their home country, domestic violence is not considered a crime. It is a normal part of the marriage, and wives are expected to tolerate abuse, if not to expect it. Women are raised with expectations to be devoted to their husband and children and self-sacrifice for the family. They are taught

that a wife's obligation is to stay in the marriage, regardless of how abusive the husband is, and to put the welfare of the family before her own. There are also expectations to keep the abuse within the family and particularly not to divulge it to outsiders. Over half (54%) stated that they did not report the abuse because of their cultural or religious background and belief system. For example, the respondents repeatedly emphasized the impact of their culture on marriage and responding to domestic violence:

In Mexico we are taught by our mothers to respect and love our husbands no matter their abuse of us.

In Armenian culture, it is okay for a husband to hit his wife, and she should accept it. In America, it is considered a crime.

The Mexican women should put up with husband, women should not have an opinion or make decisions.

There's a difference because here it's a crime, in Nicaragua if the couple makes up, then it's okay

I was raised in a Hindu household; you are to be obedient and considerate of your elders.

The man is the center of authority. He is the supreme decision maker. He is the breadwinner; without him, in general, it is very hard to survive financially, especially if you are unskilled or uneducated.

In the U.S. a woman can voice her opinion. There, others decide for you. The cultural and social pressures are on the woman is to make the impossible possible. But sometimes, family are very good to talk to.

In Mexico, they do not interfere until the woman is sent to the hospital; in the U.S. they interfere at an early stage, before there is need to send women to hospital.

We are family-oriented and culturally addicted to the extent we cannot differentiate the right from the wrong or support the right. We want to save the face of the family paying high costs.

Tradition (says) stay with person married no matter what does women stay home be housewife and put up with domestic violence. Here divorce is acceptable more so domestic violence not accepted.

The women also highlighted the role of their religion in their reluctance to disclose the violence:

According to the religious belief it is different, because in Haiti no matter how bad it is, you are supposed to cooperate with your marriage. The difference in the American way, which views domestic violence as a crime is the best way of dealing with domestic violence.

My religion is different and women have to behave a certain way.

Domestic violence is accepted in my religion and my culture.

We are more religious, keep strict tradition. We keep our problems for us. Only family knows about them. We sacrifice for our children.

The expectation that women sacrifice their welfare for the family, particularly for the children, also played a key role in the women's acceptance of the abuse:

A man can do anything, he is the head of the family, and a woman should always sacrifice to make things work. The expectations for men and women are different. Our culture does not welcome outside intervention. We don't involve outsiders in family issues. We do not consider domestic violence as a crime, police do not get involved. We don't go to shelters. Legal system does not get involved.

We women are pressured by our own families, culture to stay with our husbands. We cannot make our own decisions. We are family-oriented. We don't think about ourselves. We think about everybody else.

Women in Latin America and Mexico are supposed to suffer a lot with their husbands.

Marriage is supposed to be forever--and a duty.

It is expected and internalized by women to put up with everything to save the family. There is absolutely no pressure on spouse to change or differentiate the right ways.

We have to listen to men more than the American women. We have to stay home most of the time when we get married. We have to be more responsible for children and husbands.

We appreciate family ties, we think about children more. Women being

financially dependent on husbands.

An overriding consideration in these women's acceptance of the abuse and reluctance to report the battering was these beliefs that marital strife was to be kept private and should not be disclosed to outsiders. In the words of the women:

Yes, we are raised to keep secrets of our homes, our religion, our tradition teaches us nobody to know our problems. A woman should stand, help, support her husband. We need our spouse's approval for outside help.

Close family ties, tradition does not allow problems to be known publicly.

Yes, we feel ashamed to involve strangers in our personal lives. We don't like publicity.

Everything stays in family. Sometimes we don't even tell our families, only after many years of problems.

These views, values, and belief systems affected expectations regarding reporting the abuse to authorities. Many of the women stated that they became aware that domestic violence is illegal behavior only after they arrived in the U.S. They also were not accustomed to involving outsiders or reporting domestic violence to the police. As some women explained:

Yes, we don't involve police or outsiders, only family.

We became aware of domestic violence in this country, because we know that many people can help us with our problem.

In my country domestic violence is not a crime so when it happens that a man hit the wife-nothing happens and the women doesn't have any place to go except his family, and of course the family encourages her to go back to him.

They (in my country) view the concept of domestic violence totally differently.

Here it is another country, there are more laws and here it is much more strict.

No, in Mexico they don't do anything about the violence, here they are very supportive of battered women.

Domestic violence is not tolerated here in U.S.

It (domestic violence) is more acceptable in my country. It is also not a crime. Divorce is shameful for my family. Here women have support.

Some women also commented on the differences of views about and of responses to domestic violence in the U.S. as opposed to those in their home country. They noted that in their home country the police would not intervene in domestic violence incidents, or that their ethnic or national community in this country often would continue to uphold views about the duty of women to stay, not to disclose the abuse to outsiders, and to keep the family intact, despite the abuse. The women stated the following:

Here the police will help you, in El Salvador, they won't.

Here the police and the law protect the women. The police are very responsive here and very helpful.

I'm from Haiti; there is no such law to protect women against domestic violence.

My national community doesn't believe that domestic violence exists.

First, here in U.S., a woman demands her rights. The Arabic woman does not have a say in Arabic countries.

Yes, in the U.S. they are more considerate of women.

In the U.S., domestic violence is very wrong and is punished.

I think that the Americans treat it like a crime, because that's what it is.

With the realization that domestic violence is a crime in the U.S., many of the women have also discovered that women in this country "have a say," that talking about domestic violence is acceptable, and that support, whether emotional, financial, or legal, is available for women in their plight. The women disclosed their discoveries:

In the U.S. there is more support and protection for the victims, more services.

I think that the Americans are more prepared in order not to reach that point.

A woman in U.S. has her say, can make her own decisions, the government helps her to have the kids, in our country, no welfare benefits.

Much more talked about domestic violence.

Now we think it is a crime here.

The clergy here in U.S. encourage you to report it to authorities.

The women found it comforting and empowering to know that they have the option to mobilize the justice system for help. It provided them a “big relief”, or they found it “positive” or “helpful”. However, they were well aware that their communities, or segments thereof, did not view intervention by outsiders favorably. This particularly applied to intervention by justice system agents, as in some of the communities, domestic violence is perceived as a “normal” part of marriage or a private matter. Some women explained their respective communities’ views on reporting abuse or outside intervention:

A lot of Mexicans are not in agreement with the intervention; they don’t believe there is a need for outside interference because not such a large issue as to bring police in.

The majority view violence as something normal within the relationship, so they believe in not having intervention.

They don’t like it, because they want to have the liberty of committing family violence at will.

We don’t report it because of our culture-the family problems are resolved within and don’t need outside intervention.

Doesn’t like the intervention because it is custom in Mexico that domestic violence is not a crime.

In this town, it will label the woman. It will make it harder on the woman.

Not a good idea.

There was an agreement that such actions may harm the woman or reflect negatively on her. As some women explained:

They don't like it. They see it as a bad thing. They think women should protect men.

They think it should be kept in the family. Family should deal with it.

As a last resort, otherwise, they don't encourage it.

They question her a lot placing the blame on her; she shouldn't involve any one else but herself.

As a dangerous step.

I believe they blame the women. Nobody told me anything but that's how I feel.

Not very good. The wife deserved it.

They do not like strangers to get involved in family matters.

In some cases, acculturation has been associated with communal acceptance of domestic violence as a crime or a behavior that deserves intervention, particularly if resulted in serious injury. Some women described this acceptance:

The Armenians from Armenia think police intervention is bad but Armenians in the U.S. generally do not think police intervention is a bad thing.

It depends. When cases are really bad, like publicly seen abuse, the community 100% supports. When cases happen behind closed doors, the community is hesitant.

They think it is ok if the situation is really bad.

It depends from case to case. If you or your family has a social standing.

The community is accepting the outside intervention except the religious leaders still even if the spouse is very abusive they do not give religious divorce to victims. The batterer immediately remarries while the victim is helpless. Also, the community is not very supportive to a divorced

woman.

The Hispanic community knows not to mess around, because there exist laws that will be implemented (respected) against them. So intervention is viewed with respect.

Other women explained the reluctance to involve justice agents by referring to Unpleasant past experiences (either in the home country or here) that make such intervention unwelcome or suspect in the eyes of the community. These women related the following:

They feel discriminated against when they intervene, unjustly and too harshly.

They tend to judge.

They do not trust the system.

Suspicious. Sometimes they approve, sometimes no.

Fear intervention and feel insecure.

Many women stated that these communal views and attitudes, regardless of the reasons behind them, affected their response to the abuse, prolonged their staying, or prevented them from seeking outside help. The women acknowledged their feelings about responding to domestic violence:

They will think badly of me.

I will be ostracized and then where will I go?

Shame and gossip. They let you feel ashamed.

It makes you hesitate. Even if you know it is the right thing to do, you postpone the outside intervention.

Their perception about me as a good wife and mother; they wonder if I had justification to act like I acted.

Yes, the expectation from a good woman is to sacrifice for the sake of family.

Everybody was telling me you should stay because of the kids.

Yes, subtle pressure. I would be isolated, I think.

Yes, the church told me maybe he would change. My friends told me that he wouldn't change.

The community will look down upon her if she is divorced, and her son will suffer as a result.

Especially in my case, divorced before, I feel they will have more excuse to believe that the problem is with me--that my marriages do not work.

In my case, no, because he did things against our religious principles, otherwise I would have stayed much, much longer.

My way of upbringing whether I socialize in my community or not, women have to be patient and make things work.

These internalized belief systems and traditions, coupled with ignorance of the criminality of domestic violence and of the availability of services for its victims, were some of the reasons the women did not resist the violence at first and stayed for so long in abusive relationships.

Avoiding the Violence and Responding to the Abuse

The women reported that they tried to avoid conflict or prevent the violence mostly by evading confrontation, making special efforts to please the abuser, or trying harder. According to the women, avoidance took the following forms:

I wouldn't argue with him, only when he was calm would I talk to him.

If I didn't know much about something, I wouldn't talk about it.

I would avoid being in the same room. Or when he was aggressive would lock myself in my son's room.

I wouldn't argue, would not talk to him, because anything I said would lead to an argument.

I did everything he told me to do. I tried to anticipate his needs.

I agree with him.

I avoid him when he is drunk. I try not to talk back when he gets angry.

I would go outside or lock myself in the bathroom.

I will be quiet. Not provoke him by bringing up my desires. Leave the room/stay away from him.

I will be silent, not talk back, avoid him, so at least he does not beat me.

The women also tried harder to please the abuser or to be “a better wife”. Some women elaborated on their response strategies to the abuse:

I would try pleasing him, would try to do everything right so he wouldn't get upset (keeping the house clean, the children well and food on the table) and trying to keep the peace by accepting it.

I pleased him in all he wanted.

(I tried) Everything. I obeyed him and my in-laws.

I tried to do things his way.

Did everything he told me to. Tried to anticipate his needs.

Trying to be better wife.

Keep house clean and children. Keep the children out of his way.

Cook good food, clean the house well.

Please him- the only thing that worked, loud talking and an excuse-didn't work.

Would massage his shoulders.

I try to make him happy by doing the things he wants me to do or likes.

I try to convenience him, try to appease him, I try to scare him that I will leave.

Tried to talk to him, tried to be extra nice, obeyed everything.

At the beginning I tried to be the ideal woman, extremely clean, cooking excellent, always there to please him.

Some women internalized the abuse, blamed themselves for being battered, or even tried to commit suicide. These women related the following:

I was not a good wife and daughter-in-law.

I don't know; sometimes I would not listen to my mother-in-law.

Yes, with my first husband, I wanted to kill him, choke him while he was sleeping, but I could not. I took his pills (for nervousness), he took me to the hospital, I was pregnant. My daughter was born premature.

Several women reported resisting the abuse. The strategies they used included actions ranging from talking with the abuser to calling the police or leaving the house. The women explained as follows:

I tried to show that I am not afraid of him.

I tried to speak to my husband about his problems.

Carried a knife.

I left the house

I called the police.

I just keep quiet sometimes. Other times, I want to leave. I have called the police 2 times. He also abused my children.

I left him and came to shelter.

I left him, asked for divorce, left the country after dividing half our assets.

In response to a question about what would make the abuser stop threatening or abusing them, the most common responses were leaving the abuser or a divorce, fear of the police, or family intervention (mostly his mother but sometimes her parents). In a few cases, pregnancy or severe trauma to the woman led to stopping the abuse.

Relationship with their Families and Families' Reactions to the Abuse

The interviewees were asked to describe their relationship with their own family and with their husband/partner's family before and after the move to the U.S. Most of the women generally stated they had very good relationships with their own family prior to and following the move to the U.S. Whether the nuclear family or other family members of the immigrant interviewees were in the U.S. or remained behind in the home country, they supported and provided comfort to their daughters, sisters, or relatives. On the other hand, most of the women generally described their relationship with the husband's family as tense, strained, or even openly hostile sometime before the move or after the move. Some of the interviewees stated they did not know the husband's family or had no relationships at all:

I don't have any communication with them.

I don't know his family.

After the move only spoke to his aunt over the phone because they live in Italy.

I didn't have any contact with his family, because they didn't approve of our marriage.

I have never met them. They live Armenia.

During the 2 years that I live with him, I only met his mother. The rest of the family was living in Colombia.

I don't know them--still!

The majority of the women who have had contact with the husband's family stated that the relationships were strained or outright negative:

I don't have any relationship with them, we don't like each other.

I don't like them, they think that their son and their brother deserves something better as his wife.

A bad and conflict relationship.

I don't talk to any of them.

Always has been a bad relationship.

Those who could compare the relationships with their husband's family before and after the move to the U.S. often acknowledged that the move had an adverse effect on the relationships or did not improve them:

After the move--very bad. His mother didn't love me at all.

At first they were very loving and after it got really bad, when I got a protection order against him.

After the move, it's very bad because they think I provoke him.

It was OK then but now if I disclose what he is doing, I do not know what will happen.

It was bad then and it is worse now.

It has been less physical aggression by his family, although greater verbal abuse.

Some women explained the reasons for the strained relationship with the husband's family:

They hated me when I married him, and I guess they still hate me now.

I only met them two or three times. I don't think they like me--because I am not the girl he wanted to marry.

I hate my mother-in-law. She is the cause of all my troubles. My relationship was bad then and it is worse now.

I was unhappy, controlled by his family, ridiculed by his family.

Nothing much. They do not like me. They think he married below his station in life.

I don't know his family too well. They are afraid he will be court-martialed and imprisoned for what he did. They blame me for the decision

to come to this country with him.

We lived with his mother here in U.S., she was abusive as well. Would not let me out anywhere.

My husband's family loved me and my children before and now they blame me for the abuse.

Only a minority of women stated that following the move to the U.S., they have had good or at least not openly hostile relationships with their husband's family:

After we moved here, his mother loves me a lot and so does his youngest brother. Their customs are very different but I won their love.

After we moved here, it was very short and very close.

They have always been neutral, have not changed.

After we came here, no type of relationship with them. He has a sister, but this sister doesn't love him. I have a good relationship with my father-in-law.

The same with his family; I am still on good terms with my mother-in-law.

Although some of the women reported that the relationship was at first good or cordial, most of them noted that after the move to the U.S., and once the violence became known or began, the husband's family usually sided with him, and they were either passively (by staying silent or not reacting) or actively involved in the abuse:

I had good relationship with them before they found out about the problems. After finding out, they were on his side.

I didn't have a good relationship - my sister in law was very jealous toward me, his mom too. From the beginning they would talk to my husband against me behind my back.

I only see them occasionally, but they don't see anything wrong with the way he treats me.

My husband's family is aware of my husband's problem so somehow they are supportive of me, but when it comes to serious matters, they side with my husband.

In the beginning they weren't that much against me but after marriage took place, they began turning against me.

I met most of the family after I moved here. My mother-in-law lived with us and was an instigator in the violence.

A minority of women described good relationships with their husband/partner's family, or stated that members of the spouse's family had been supportive of them or intervened on their behalf:

I'm very close with them, because they told my husband that he has to change to be a better husband for me.

I have a nice communication with all of them.

I visited them when I have time or they come to our house every weekend. We get along each other.

Good relationship with all of them. They're good people.

Many immigrant women come to the U.S. with only their husband accompanying them. Sometimes they come to join his family or him and his family. When the immigrant woman is separated by distance from her own family, the loss of their presence and support, coupled with hostility toward her by his family--the only family she may have in the U.S.--compound her loneliness and isolation and magnify her suffering.

Leaving the Abuser

When attempts to avoid the abuser, to appease or please him, or to talk to family members or friends, if available, about the abuse did not help, the women contemplated leaving the abuser as the only way to stop the violence against them. The majority (85%) of the women made one or more attempts to leave the abuser. Many of the women tried several attempts, ranging from one to fifteen, to extricate themselves from the violence.

Some women stated they attempted leaving hundreds of times.

Battered immigrant women have several interrelated and intricate problems, which prevent them from leaving the abuser or pursuing independence. They face barriers confronted by all battered women, including embarrassment and shame about disclosing the abuse and having to seek help, emotional and economic dependency on the abuser, reluctance to break up the family, and fear of retaliation by the abuser.

For battered immigrant women, these difficulties are compounded by problems they experience as new immigrants, including lack of familiarity with the social and justice systems, their immigration status, little employment and language skills, no support network or family, a deep fear of losing the support of their immigrant community (often the only community they know), and fear of retaliation by the husband and his family (often the only family they have in the new country). Thus, immigrant women often do not even consider leaving as an option.

In some instances, the immigrant women's own families encourage them not to leave but to stay in the abusive relationship, as it is shameful to divorce, difficult to live alone, or not good for the children. Many of the respondents described the pressures they experienced from their families to behave, be a better wife or to endure the abuse as this was expected of them:

My mother and father told me to go back and be a better wife, otherwise I would be shaming them.

My mother told me to bear it, since it was my decision to marry him.

Told me to behave myself.

At first they were sad, told me to be patient. God will solve it.

The immigrant women's families brought up transgenerational effects of

divorce/separation in traditional cultures to prevent their daughters or sisters from leaving or to delay the separation. Families warned that divorce will negatively affect their children's welfare or chances for a good marriage, or will decrease their younger sisters' prospects to marry. Also, they used fear of shame, gossip, and guilt in convincing their daughters to stay with their abusive husbands. These difficulties and pressures were complicated by serious concerns about the fate of their children, loss of custody if they divorce or if they are forced to leave the country, and immigration-related consequences.

In responding to a question about what kept them in the abusive relationship, the women reported a combination of barriers, many of which are found in any battering relationship:

I guess my children's. They're really close with their father.

The children need a father.

I will not leave him. Shame to my family.

My children were the main reason to stay with him. I always thought that my children need their Dad. Right now I found out that my children are better off not to live in that abusive environment.

I do not want the abuse to be publicly spoken about. I have a very respectable job. My children are almost about to finish high school. My third child, and financial matters. Everything belongs to me. I want to find a solution that is very quiet through my attorney.

My family always sees divorce as a bad decision.

It will affect my sister's ability to marry. What about my children? Who will marry them?

Money problems and housing.

Yes, [I stay because] I have two sisters who are not married yet. If I leave him, then my sisters' image of a good marriage is destroyed. It will affect my sister's ability to marry. And what about my children? Who will marry them?

Economic, social, and financial difficulties and concerns about shame, loyalty to the family, fear of negatively affecting other family members, self-image, and the family's well-being and reputation were repeatedly listed as barriers to leaving the abuser, together with thoughts that the children would not be raised in the presence of a father. Some women also expressed fears, based on their respective husband's threats, that leaving would lead to serious injury or even death.

The interviews also disclosed barriers to leaving or motivation for staying with the abusers, which were specific to immigrants, as the following responses illuminated:

In spite of he has divorced me and he is living in California, he threatens me about my green card that he's going to call INS, because I lied that I was single instead of divorced. If I did mention that I was going to stay alone in Lebanon. He stalks me, contacts me at home, at work in Michigan.

Immigration status. I need my Green card.

My children and the family unit is what keeps me in the relationship. However, he has promised to stop hitting me. I used to fear deportation, not anymore--I filed my own papers. I also wanted to protect my children.

Yes, children, shame, I do not speak English, I have no financial means, no job....

(He has become) more abusive. He knows the system, I don't. He speaks English, I don't. I don't have family support or someone living with me, so he can lie about me.

Shame, children, the idea of divorce, financial problems. My position in society, what people would say. I feel embarrassed. My children future. I thought it was good for them if I stay. Financially, I have never worked outside, the unknown of the outside world to survive.

The reported fear of retribution by the husband is compounded for immigrant women by the fear of losing their children, if they break up the family. They also fear that their children will be deprived of the opportunities for a brighter future that, in the

minds of the women, the U.S. can provide. In response to why they did not leave the abuser, many women stated that they did not want to jeopardize the immigration status of their children and that a divorce or leaving the U.S. would have consequences for their children or for themselves:

Employment for my older children and their immigration status. Son wants to be a U.S. citizen, to attend school and work here.

My children's future. I thought it was good for them if I stay.

Family is demanding until recently that I return home. I am afraid. I am afraid to go home.

One woman articulated the myriad of problems she had to confront in a decision to leave as follows:

Expectation about the role of woman to preserve the family together, children's sake, reputation, shame, financial situation. Not having your own family near you to intervene or side with you. [I decide to stay because] children not being raised in presence of father in spite of the problem. If I leave to shelter with my children, different culture, I want to keep my culture. Shame and reputation, that I exposed my family problems outside, not good for my children's future and my own family. People will look down at me. Financially, I can't, neither my parents can assist in supporting my family.

Help-Seeking and Reporting Behavior of the Battered Immigrant Women

The immigrant women expressed reluctance to reveal the abuse to outsiders. Most responses cited cultural prescriptions against disclosure. Regardless of the ethnic or national origin of the women, interviewees stated that in their culture or country, women do not seek help as abuse is a "normal" or "natural part of family life": women are expected to tolerate it, be loyal to their family, and self-sacrifice for their children.

Typical responses were the following:

Yes, because I thought that it was normal for a man to do that. I was scared to say something.

There is nothing you can do in Bangladesh legally, you will be killed.

We are married for life so no sense to say anything.

We are family-oriented and culturally addicted to the extent we cannot differentiate the right from the wrong or support the right. We want to save the face of the family, paying high costs (for it).

Some women also echoed fear of immigration consequences or other adverse outcomes for their abuser, their children, or themselves, if they reported the abuse:

Because of the consequences for him, fear of being deported and losing my child.

I didn't want to do anything bad to my children's father.

Because he will be in jail.

I still do not believe it's a good idea to call the police. Maybe in my situation it is different. It will complicate matters. They make it a very big issue in some simple cases.

Because of the unknown in this country. I was the one who ended up in prison because of something he did to me.

The women sought support or advice from several sources. The most frequent person(s) the women approached to discuss the abuse was a friend (56%), followed by relatives (40%), the immigrant community (36%) and religious leaders (30%). The women were not eager to involve authorities to address in the abuse. They explained their reluctance to call authorities as follows:

We don't involve police or outsiders, only family.

We feel ashamed to involve strangers in our personal lives. We don't like publicity.

We don't like the police or courts to interfere.

Most don't call the police because of lack of information and then the belief that we should put up with it and not bring anyone else into it.

About two-thirds (65%) of the women stated that in their home country, domestic violence is not defined as a crime. Those who came from countries in which domestic violence was a crime reported satisfaction that they can rely on the justice system for help. Over half (54%) the women related that they did not report the abuse because of their traditional background/beliefs.

Police

In almost two-thirds (61%) of the cases the police became involved in the violence perpetrated against the women. For about half of these victims (48%), police were called for help during multiple violent episodes. In over one-third (35%) of the cases in which the police participated, someone other than the victim alerted the police. Most often, it was a neighbor or a family member (e.g. mother of the victim or of the abuser) and in a few cases, a hospital. One-tenth (10%) of the women reported that the police inquired about the victim's immigration status (although the percentage of inquiries per incidents reported was lower, as some women reported multiple encounters with the police).

The police who responded to the calls arrested the offender in 18% of the cases, in 20% made the offender leave, and in 22% gave a warning to the perpetrator. These statistics are similar to arrest outcomes in domestic violence cases in various parts of the country (e.g., for Ohio Erez and Kessler, 1997 reported an overall 18% arrest rate in domestic violence cases). The victims were taken to a shelter in 5% of the cases, to the hospital in another 5%, and were arrested in 2% of the cases.

In one-quarter (25%) of the cases, professional interpreters were available for women who could not speak the language. In the rest of the cases, relatives of the women (e.g. nephew, sister-in-law, sister's husband, cousin), children (mostly sons), someone

from the community (e.g., neighbor, special agency staff), or bilingual police officers served as interpreters.

Three-quarters of the women evaluated their encounters with the police positively, 4% had mixed evaluations, and 21% of the women interpreted their encounter negatively. Those who were satisfied with the police found them “respectful”, “kind”, “helpful”, “professional,” or “excellent.” They stated the police made them “feel good,” “comfortable,” “secure,” “safe,” “calm,” “supported,” “protected,” “like they had rights.” Those who reported negative experiences showed that the police made them feel like she “was a criminal”, “crazy mother”, “not as privileged as my husband,” “uncomfortable,” “foolish,” or caused them to feel “disappointed that they did not help” or “scared.”

The women described various positive aspects of the encounters with the police. They included some tangible results such as “having the man arrested,” “faster divorce,” “restraining orders,” “giving him warnings,” “that he was made accountable,” or just “giving me information.” But most often what the women described as positive was “feeling secure and safe,” “telling me the abuse was criminal,” that “what he did was wrong,” “knowing I can call the police,” “knowing there is help out there.” The women also felt empowered when they found out that the criminal justice system is an effective resource at their disposal. “When I called the police, my spouse was afraid” and “someone took me seriously.”

Negative aspects of the encounters with the police were described as disappointment at the outcome or police response time: “they did not take him to jail,” “they did not arrest him,” “that he was arrested in front of the kids and going to jail,”

“they came two hours after I called and I was afraid that he will kill me,” or “they did not take me seriously.” Cultural and language barriers and the abuser’s superior immigration status also played a role in negative encounters: “I didn't understand them very well,” “talked down to me,” “they listened to him because he is a citizen and speak a much better English,” and “it was scary because they are the police.”

When asked how police could improve encounters with the women, battered immigrants cited many wishes similar to all abused women: “to hold the batterer accountable,” “do not ask the woman to charge the abuser but to do it on their own,” “respond fast,” or “keep him locked for a long time or do something to him so he is scared.” However, they more often included requests that are special to immigrant women, including considerations of language barriers, cultural understanding, or immigration status:

More bilingual officers.

Have translators available and community people.

They need to understand that we women sometime don't tell the truth, as we are ashamed of our husband's bad behavior.

Not to ignore women who are illegal or give them less importance.

Teach police officers more about Arab women culture and why we refuse to talk.

Those women who do not speak English, to understand why they don't report details--police need to be trained in our “culture”.

Courts

For over half (54%) of the women, domestic problems reached the courts. The most common reasons for using the courts were to obtain protection orders, divorce, and child custody awards (each one about a third of the cases). Criminal charges for domestic

violence were brought against approximately a quarter of the abusers, against whom protection orders were sought, and one woman appealed to the court because her abuser abducted her children. The courts communicated with the women through interpreters in 27% of the cases, through someone else at the court or a community member who spoke their language (15%), through their lawyers (11%), through victim assistance (13%), or through family members (4%). Battered immigrant women were generally able to access the courts without being asked questions about their immigration status. However, in four cases (6%), the women were asked in court about their immigration status.

Most of the women interviewed evaluated their court experience positively. They found the judge, prosecutors, or other officials understanding, helpful, and respectful. Many stated they felt the judge was on their side, was patient, or provided necessary and useful information. Although many of the women related it was “scary”, “nerve wrecking”, or “confusing”, on the whole they were satisfied with their court experiences. The only complaints the women voiced were regarding long waits or not getting the remedy they were hoping for or felt they deserved (such as custody or a speedy divorce). Some credited their positive experience with the court to their support persons, such as victim assistance, counselors at the shelters, or their attorneys.

In a response to a request for recommendations to improve the court experience for immigrant women facing domestic violence, most of the women commented about the need for “more people that understand our culture”. Some women recounted that the courts should have more understanding about domestic violence:

More people that understand our problem.

More consciousness on domestic violence.

More people that know our needs.

That they not laugh at such serious matters involved as if it were a joke.

More interpreters.

That they be more understanding to women with children in these difficult situations.

Women requested that the court encounter be less intimidating and that the assistants for the women should be versed in their culture:

Make it less scary.

Someone to protect you while you are coming and going.

From my community to be someone from a program to assist me through the system, because there are things we don't feel at ease to talk about.

We don't like to stand in front of the judge and face our husbands with their attorneys. Victim's advocate should come from our culture so as we can give more information.

Court needs to provide legal help for immigrant women by people from the same village.

The respondents suggested that the court process be simplified and explained through an interpreter or through persons able to communicate with immigrants:

It's very time consuming these courts. Being abused and have so many other things to worry about for your daily life. It's complicated. I wish things were simple.

Less time waiting for judgment.

The process should be explained so that women feel like they know what is happening. For women of my culture, a Turkish translator.

More information you can understand.

More help for us immigrant people about the law. There is no help out there.

Some women asked the courts to provide free and competent legal access and

comprehensive investigations, and one woman admired the fact that her abuser was not present when she was in court:

I really liked the fact that my husband wasn't present, and in these cases it would be nice to know that other women wouldn't have to face their abuser in court either. The abusers presence can be very intimidating.

More investigation. To take into consideration when a woman does not know the system, she says things that sometimes work against her. What appears the truth is not necessarily the truth. Also, check other records of abuse that happened in other states like mine.

More free legal access to courts, especially in cases of emergency. To be updated and explained what are the chances of success you can obtain. I feel there is always an unbalance between spouse's attorneys who are paid well and ours who don't do their best.

Have free legal help or lawyer who speaks the language but provide free legal help.

Non-Residential Victim Services

About a third (35%) of the battered immigrant women reported seeking a variety of services that were not shelter-based. Most often, it was for counseling for battered women. Some sought victim services in matters regarding the children and assistance for immigration-related issues. The women heard about such services or received referrals from numerous sources. Friends, neighbors, family members, religious figures, immigrant organizations, support groups, ethnic community members, attorneys, the police, and military authorities referred them. Some of the women learned about these victim services through the media.

With only one exception, the women reported satisfaction with their contacts with non-residential service agencies. They participated in counseling, parenting classes, and support groups. They benefited from having someone listen to them, providing

information and comfort, boosting their self-worth, or being kind, supportive, and encouraging. They also discovered that sharing the abuse and battering experiences with women of all groups was very helpful, as the following responses suggested:

The same kind of abuse happened in all our lives.

A nice lady called me and told me that she had the same situation.

I have seen that they can and have survived without their husbands. Listening to their experiences motivates me to move forward and prepare for the future.

I felt bad that we all had suffered under the conditions of domestic violence. But I felt good that I wasn't alone.

The few complaints with regard to non-residential victim services were that they were not well advertised, that it took time to get information, that they put too much pressure on the client in terms of doing things for herself, that they could not go to an agency that spoke their language, or that they were declined service because agency guidelines did not allow them to receive service. Some women complained about being treated as “less than an American. I was a bother,” about being “questioned a lot,” or about having an experience which was “frustrating but not surprising.” “Improvements the women recommended for these services were providing transportation, more resources, and most commonly mentioned, “bilingual personnel that understand our problems” (“use more culturally diverse staff,” or employ those who know “different languages”). They also stressed the need for staff to be tolerant or to not put pressure on the women.

Shelters

One-fourth of the immigrant women surveyed sought refuge at a shelter or was referred to a shelter by the police or other advocacy organizations. Usually, it was after a

prolonged period of abuse (between 6 months and 25 years, mean = 6 years).

The majority of the women (90%) reported that their stay in the shelter was for the most part a positive experience. They reported feeling welcome, safe, secure, and comfortable. Being away from the abuser was also appreciated. They thought the staff was respectful, kind, helpful, and caring and generally made them feel that being a victim was not their fault.

The women also reported that the staff provided tangible things such as food and clothing, as well as information, classes, and counseling for them and their children. Shelter staff helped them with legal issues including protection orders, housing, advocacy in court, and custody issues. The women's statements confirmed that the employees and other women made them feel that they were not alone in this predicament:

Employees and other women made me feel like I had nothing to be ashamed of.

No violence, feelings of freedom, have counseling, have a room which I like.

I feel more secure and at peace with myself. I have been able to do things that with him I could not do like I learned the bus system.

That I wasn't alone.

They made me see that my life wasn't over for me and my children.

Gave me a lot of confidence. Safety and support.

Nice people and it helped me.

They were good to me. Place to stay. Nice place, nice people.

They helped me obtain housing, advocates in court and custody over the kids.

They gave a lot of information and got me in touch with a lawyer.

They were helpful--provided clothes, bed and food. I participated in a group. I was not alone.

I met another woman with children who had same problem.

They helped me get my restraining order, provided classes and counseling, and also counseling for the children.

The respondents' complaints related to issues such as "too many rules," "very crowded space," "not enough space for the children". Although shelters are not supposed to ask battered women about their immigration status, one woman complained that she was asked about her immigration status. The most recurring complaints were in reference to their abuser's foreign origin, as well as their own, their culture, and communication problems. Some women explained their experiences:

It was a good experience-I learned a lot but I know I could not survive if there wasn't an Iranian who speaks my language there. The others were also nice to me.

Some women (victims) were scary and not nice. They had problems with boyfriends. Because I was different and did not speak English, some women looked at me differently. I did not speak English and nobody there spoke Arabic. So I had to call my husband to pick me up 3 times.

It is a very good experience--everybody wants to help me, but at the same time because of language problem I don't feel I can relate to them too much.

They were nice. But being an Arabic woman felt different. They gave me two pills to relax. I did not know.

Living with other people of different cultures and customs was difficult.

Too many women. They did not like my cooking.

The recommendations the women made to improve shelters included fewer rules, more space, privacy, information, job training, and communication between the

administrators and clients. But the most commonly offered suggestions revolved around accommodating cultural/ethnic/language differences and needs:

They should have more access to these places when we need them. And more bilingual persons.

It will be more helpful if them have shelters for Latinas specifically.

More people that speak or understand other language than English; not all the women that need this help speak English especially immigrant women.

Have Arabic speaking staff. Arabic food.

Bilingual staff or interpreters. Not to put five women in one room.

Interpreters. Ethnic food of my country--“Halal” meat.

More control about drugs given at shelters or victims that bring in their own drugs.

Arabic staff. Individual rooms or apartments when you have many children.

All the shelters have to have a person who speaks the language. I felt lucky to have that in a shelter I went to. Have material translated into my language.

They should have more people that speak our language or more resources to use for us...

Need more personnel who speak the language.

The women generally recommended more programs that are geared toward immigrant women. As they put it:

I would like to say that there are not enough programs that understand our culture or that understand the problems that an immigrant woman has to face in this country.

I would like to have more services for immigrant women like therapies or other services.

The interviewees found their stay at the shelter illuminating for several reasons.

The major factor that resonated in their responses was the realization that domestic violence and woman battering were not unique to their own ethnic group, but cut across all countries, nationalities, and ethnic origins, including the U.S. Indeed, some of the women stated the following: “they all had the same story as mine”, “all have domestic violence and planning how to live by themselves.” They also discovered various options battered women in the U.S. have at their disposal, such as getting legal assistance, housing, counseling, support, and recognition as victims. These options made domestic violence in the U.S. a different and “easier” experience to handle. One of the women explained in this way:

I felt that many of the women at the shelter had choices. In the U.S., there are a lot of opportunities for women. All they have to do is choose to leave their abuser.

Some women noted differences between themselves and other residents relative to marital relationships and views of family. To them, the problems that brought non-immigrant battered women to the shelter or the ways these women conducted their life in general were foreign. One immigrant woman observed as follows:

Their problems were totally different than mine. Though domestic violence but one found out her husband was gay. Others, they betrayed their husbands. They would say, we keep one for sex, the other for money. Another one gave up her children to adoption.

The negative aspect of encounters with outside help, according to the women, was finding out that being different in terms of culture, language, or tradition set them apart from other women victims. They felt isolated, because they could not communicate with employees, and encountered language barriers; their helpers could not understand their behavior or appreciate their motivation to act or refrain from action. The providers often were not familiar with their culture or did not appreciate their unique circumstances.

Conclusion and Policy Recommendations

The results showed that most of the immigrant women came to the U.S. because of their familial ties or marital obligations. They followed a spouse who decided to immigrate or arrived through family unification arrangements. Others came as part of a family of origin or on their own, to improve their economic condition, seek refuge from political oppression, or flee violence.

Being a part of the family and loyalty to their family of procreation as well as their family of origin often constituted the reasons for which the women endured lengthy, severe, intimate violence. With much pressure from the family of origin (family back in the home country or in the U.S.) not to leave, and with various beliefs that marriage is forever and that divorce is not an option--it is shameful, may reflect negatively on the woman and her children and may entail difficult consequences for them, such as inability to marry or remarry--the women were predisposed to remain in the marriage and endure the abuse.

The interviews revealed various barriers to leaving abusers, which were characteristic of all battering relationships. They included financial, economic, social, and emotional dependency of the women, as well as low self-esteem resulting from the humiliation and degradation often accompanying physical abuse. Familial and community pressures to remain in the relationship and fear of "losing face" in case of divorce combined with fear of the abuser as significant deterrents to leaving.

The women also reported hurdles related to their immigration status, including inability to stay in the country or keep the children, should they decide to leave the abuser, seek divorce, call the police, or request outside help. Three quarters of the

abusers used the immigration status as a weapon. Threats and fear related to their immigration status and to staying in the country were very real. Although some of the immigrant women may have had legal immigration options independent of their abuser, most women thought or believed that they were dependent on their abuser to apply for a visa or green card. In the majority of the cases, the abuser used their immigration status as a tool to control and dominate them and to coerce their compliance with the abuser's demands. As the batterers were often the only source of information for the immigrant women, such threats played a major role in the women's decision to stay, comply with the abuser's demands, and endure the abuse.

Most of the women came from countries and cultures that are highly patriarchal, where woman battering is not considered a crime. In such countries, women have little recourse for help. The long duration of abuse the respondent has suffered was related, among other factors, to victims/survivors' lack of awareness that battering is a crime and that there are legal avenues in the U.S. to pursue against abusers. Another valuable piece of information that the immigrant women often lacked, possibly causing them to remain so long in abusive relationships, is the availability of social and welfare assistance for women in their predicament. These kinds of information and aid are critical in helping immigrant women make informed decisions about resisting the violence or pursuing independence, if this is their preference.

Other objective factors combined to keep the immigrant women in the abusive relationships. The women were burdened with caring for children, lacked work or language skills, and were economically dependent on the husbands.

The help-seeking behavior of the immigrant women is nonetheless extensive,

despite their cultural inhibitions against revealing family secrets. Initially (and for many women a long time), they dealt with the violence by ignoring it, feeling guilt, shame and embarrassment, and attempting repeatedly to please the abuser. Most of them did not disclose the abuse even to family members, nor did they report it to any authorities. Regardless of their national origin or ethnic group affiliation, involving “strangers” in family affairs and revealing battering were not options. If the abuse was eventually disclosed, it was after many years of suffering and following the advice or intervention of friends, neighbors, or persons or organizations aware of the violence.

The experience of the women with the various helping agencies, including the criminal justice system, was for the most part positive. There were occasional complaints, such as being overwhelmed, disrespected, not listened to, or ignored. Language and communication problems often hampered their encounters with the justice system, as impartial interpreters were not available in the majority of the cases.

Yet most of the women were satisfied with their experiences with the justice system or the services they received. They found listening ears, respectful officers, empathetic judges, and service providers that enlightened and empowered them. The respondents described the various officials or providers they encountered as supportive, caring, respectful, helpful, and understanding. The immigrant women also stated that they made them feel safe, secure, comfortable, less isolated and aware of their rights to remain free of abuse. Many of the women came from countries in which domestic violence is not defined as a crime and in which the justice system does not intervene in “family affairs”. The realization that in this country, justice agents would get involved on their behalf, provide them with information, or protect them from the abusers, was a

welcome and highly appreciated experience.

If nothing else, for most of the women, the encounter with outside help or exposure to other battered women provided important information: that domestic violence cuts across all nationalities or ethnic groups, that it is not unique to their own group, that they are not alone in their predicament, that woman battering is a crime, that the police will intervene, and that there is help in terms of short and long-term solutions for domestic violence victims. For the women who were accustomed to feeling invisible or inferior, dependent, and often at the mercy of their abuser, such revelations were liberating and empowering. For the women who came from countries or communities in which domestic violence is denounced, reaffirmation of that message and receiving support services were reassuring.

In light of these findings, special efforts should be made to publicize information about domestic violence in places immigrant women are likely to visit and through non-English media outlets. Information that woman battering is a crime, that help is available, and that immigration laws can offer help and protection, can make to many battered immigrants the difference in whether they will call for help. Since the data showed that most immigrant women were dependent on their spouses/partners for information once they arrived in this country, finding routes to communicate legal rights information safely is critical.

Information can be disseminated in different ways. First, immigrants who legally enter the U.S., particularly those who come on family based visa or as part of their spouse's work visa, should be provided with a brochure in their language explaining legal rights, including the facts that domestic violence is a crime and that services are available

to help battered women, including access to independent legal immigration status. Second, since most immigrant women first share the abuse experience with family members and friends, community education campaigns should be geared to reaching all women in immigrant communities and educating them about help available to battered women.

Abusers must not be able to continue to use immigration status as a weapon of control, abuse, and intimidation. Justice, health, domestic violence, and social welfare system professionals working to enhance the safety of women and their children must not inquire about the immigration status of victims. Nor should they exclude women from services because of the women's immigration status. Justice system agents need to become aware of the immigrant women's multiple vulnerabilities affecting their conduct in the justice system. Fear that reporting abuse will result in the woman's deportation or loss of custody of the children combines with shame involved in disclosing abuse and losing the support of their family and community helps to explain why some immigrant women "do not cooperate". Unbiased certified interpreters should be available to both police and courts to facilitate battered immigrants access to important life-saving services.

Since immigrant women tend to contact individuals or institutions that are not part of the legal system, an effective way to assist immigrant women is to collaborate with the service providers and organizations that immigrant victims do contact. They include churches, community-based organizations, grass roots immigrant women groups, immigration attorneys and immigrant rights organizations. These groups should be invited to participate in local domestic violence coordinating councils: Their expertise in

reaching and providing services to immigrant communities can be invaluable in outreach campaigns and in developing collaborations of service providers who can together offer culturally competent services to immigrant victims.

The long-term goal needs to be empowerment of immigrant women, so they are able to resist violence on their own terms. Many of the women attributed their staying with the abusers to their dependency. The “trauma of independence” that many women felt was the result of objective obstacles that sustained and prolonged their dependency and which reduced the women’s ability to leave the abusive relationship. Some of these barriers are shared by all abused women, such as shame or embarrassment to disclose the abuse, emotional ties to the abuser, economic and/or emotional dependency, fear of the abuser, and concern for the children. Immigrant battered women, however, are required to overcome additional obstacles resulting from their immigrant experience. Language skills, familiarity with the culture, and occupational training can help minimize their dependency. A network of effective and accessible social services also needs to be developed. Immigrant battered women need opportunities to learn about or obtain assistance in filing for immigration benefits that are open to them as abuse victims. Attaining legal immigration status for those who qualify removes a significant factor that keeps immigrant victims in abusive relationships.

Myths about battered immigrant women held by justice system personnel need to be countered by facts and education. In particular, the stereotypes that immigrant women’s dependency is freely chosen, that they are unwilling to work, that violence is a “normal” part of their culture, and that they are uncooperative with authorities that come to their rescue should be dispelled. Our interviewees clearly demonstrated that most of

them did not choose to come to the U.S.; they paid a price by following their spouse or family both in terms of their isolation and the abuse. They were interested in becoming independent of their abuser. If they did not “cooperate” with authorities, it was due to the high price that such cooperation would exact from them and their family.

Justice, social, health, and legal service providers need to rethink how they reach, inform, and help immigrant victims. The justice and social service systems must offer options for all victims who appeal for help, particularly those who are too fearful to separate from their abuser or are under pressures to stay. Officials should inform battered immigrants who may choose to remain with or return to their abuser that they can file for their own immigration relief without their abuser’s knowledge or cooperation. These victims can also obtain protection orders that command the abusers to cease further abuse.

In the immediate term, services offered to immigrant women must be culturally appropriate and must meet their special needs and circumstances. The interviewees stated that unfamiliar culture, communication problems, feeling different, and various unpleasant experiences with mainstream staff or fellow residents had deterred them from seeking refuge or staying in shelters. Lack of understanding by justice officials and social service providers of the language and culture of the abused women made the encounter difficult, creating a missed opportunity to provide needed assistance.

A pressing problem is the need to separate the provision of welfare services and law enforcement functions from immigration matters. In particular, it is important to detach criminal justice policing from the enforcement of immigration policies. The major obstacle influencing immigrant women’s vulnerability is their reluctance to make

contact with social services and the criminal justice system for fear of jeopardizing their immigration status. A significant portion (10%) of the women who called the police for help were asked about their immigration status, although there is no federal or state requirement that police officers seek this information about victims who call them for help. A somewhat smaller portion (6%) of victims who went to court were asked to reveal immigration status information. Such inquiries may deter immigrant women from seeking aid. It is important that women are assured that their immigration status does not affect their eligibility for services and justice system protections. It is also imperative that justice officials and service providers do not inquire about women's immigration status or make their services contingent on this status.

Laws, policies, and procedures pertaining to justice and social services to battered women need to be examined continuously to ascertain that they do not preclude immigrant women from their services. Service delivery practices and protocols should be reviewed to determine whether they contribute to immigrant women's reluctance to seek help or mobilize the justice system. A coordinated community response, involving the health, justice, and social systems, is necessary to address the multiple and interrelated vulnerabilities of immigrant battered women.

Chapter 4: The Perspectives of the Social Service Providers

Methodology and Description of the Sample

The service providers (n= 40) who participated in the survey and filled out the questionnaires were recruited in the following ways: Almost one-half of the respondents (n=19) answered a request by the research team to participate in the study during various meetings organized by the National Network on Behalf of Battered Immigrant Women (hereafter the "Network") that took place in 2000. The meetings we organized by the co-chairs of the Network, and they served as an occasion to train and update the Network members and other interested individuals in laws, regulations, effective interventions, and other pertinent issues relevant to battered immigrant women. The reminder of the respondents (n= 21) was recruited through an e-mail request made by the co-chair of the Network to the membership to cooperate and respond to the survey. Their completed surveys were received during the first half of 2001.

The sample included social service agencies from the states of Arkansas, California, Colorado, Florida, Hawaii, Illinois, Massachusetts, New Jersey, New Hampshire, New York, Washington, and Wisconsin. These agencies serve a diverse range of abused women and children from countries around the world, both immigrant and non-immigrant women making up their clientele. The focus of this chapter is the concerns and issues these agencies encounter in serving battered immigrant women, including their relationships with immigrant victims and their communities, other social service agencies, and the criminal justice system.

Results

Agencies' Mission Statements and Services Provided

The agencies were asked to describe their mission and the activities or services they provide. Underscoring most organizational mission statements, whether explicit or implicit, is the goal to eliminate violence against women. Ultimately, each provider seeks to empower victims of physical, psychological/mental, economic, or financial abuse through a comprehensive approach to social services or a more particularized set of services geared towards a target population. However, in order to serve the immigrant community, the agencies often have to offer services beyond their explicit mission. Accelerated growth of immigrant communities in the United States within the last two decades have placed unprecedented demands upon social service providers to extend already limited resources to meet the needs of immigrant populations facing complex and multi-faceted obstacles. To accomplish one's mission statement, providers must go above and beyond the organization's formal mandate to create new services (or increase existing ones) while continuing to operate under pre-existing fiduciary constraints. Almost half of the agencies indicated their activities and services exceed their mission statements. Some agencies in particular have expanded their services to meet the need of battered immigrant women. Assistance such as bilingual advocacy, refugee settlement, Spanish-based domestic violence intervention programs, and counseling services as developed by these agencies to respond to specific gaps in the social service infrastructure of their communities.

Almost one-fifth of the agencies adopted a mission statement with wide applicability, eschewing an account of actual services for more broadly defined goals.

One provider commented upon the flexibility this offers:

Running a women's rights program requires providing services requested by local women and we try to respond to the needs of

women as issues arise. Since the mission is broad it allows us to meet diverse needs of women in our community.

For a majority of agencies, mission statements constitute the list of the services they offer, such as providing court, hospital, police, and child advocacy, short and long-term shelter for women and their children, and counseling services for women, children, and families (individual, support groups, or both). Agencies also provide 24-hour hotlines, crisis intervention services, transitional housing and housing placement, legal services (e.g. legal representation, advocacy, orders of protection, VAWA documentation, etc.), and appropriate information and referrals. For the remainder of agencies, their mission statements outlined a commitment towards a specific population or ethnic group, or providing specific services, such as the prosecution of criminals, law enforcement, or mental health services for victims of domestic violence.

Of the 40 agencies surveyed, one-third (34%) provided emergency shelter. None of these as designed specifically for battered immigrant women, although bilingual or multi-lingual services were available at under one-third of the shelters (30%). The provision of shelter as usually accompanied by food and clothing assistance, court advocacy or legal assistance, group or individual counseling, child services, and referral services (for immigration attorneys, family law attorneys, health clinics, government agencies, etc.). Other less frequent services offered included the availability of 911 cell phones to give to residents while away from shelter, parenting classes, and drug and alcohol rehabilitation programs for residents. Infrequently reported services were emergency cash assistance and gasoline for job searches. Transitional housing, that being

longer-term shelter designed for women and children to stay an average of 6 months to 2 years, was supplied by less than a third of the shelters (30%).

Almost two-thirds of the agencies provided solely non-residential services. Generally, non-residential agencies stressed the stabilization of crisis, comprehensive forms of support for the victim and her children, empowering the victim and her family by using an informed decision-making process model, and providing tools to facilitate independence. Of this group, almost one-fourth (24%) allocated resources towards translators and interpreters (including recruitment of bilingual and multi-lingual staff members). One-eighth (13%) of the agencies offered some type of 24-hour support, such as a crisis hotline and a crisis intervention response team. The most common services reported from non-residential agencies consisted of individual and group counseling, children's counseling and programming, a range of advocacy services, and support and educational groups. Assistance was also given for housing searches, legal assistance, legal representation, referral and networking services. Less frequent services reported were agencies that offered batterer's programs and job training.

The Make-up of the Communities Served by the Agencies

In terms of the country of origin of their clientele, almost half (45%) of the agencies reported the most prevalent ethnic group served were those originating from Mexico. Over one-third (39%) responded that a portion of their clients originated from South American countries, and about the same proportion of agencies (37%) stated that the battered immigrant women they served generally came from Central American countries. One-fifth of the agencies (21%) reported serving immigrants from the former Soviet Union and Vietnam. A somewhat smaller proportion of agencies (16%) served

Laotian, Chinese, and Korean immigrants. About one-eighth (13%) were assisting women from Asian countries in general, and about the same percentage of agencies (11%) helped clients from African countries. Less than one-tenth of the agencies reported serving people from Middle Eastern countries, the Philippines, Guatemala, Nicaragua, the Caribbean, and India. Some of the responding agencies mentioned clientele originating from specific countries in these or other regions, including Panama, Chile, Japan, Pakistan, Puerto Rico, Hong Kong, Bosnia, France, Spain, Saudi Arabia, Ukraine, Iran, Somalia, Afghanistan, Ethiopia, Eritrea, Honduras, Sudan, Colombia, Cuba, Canada, and Asian Pacific Islanders.

Less than one-half (42%) of the agencies were located in urban, heterogeneous areas, serving a diverse range of ethnic groups. Within these groups, the demographics of the clientele relating to length of residency in the United States, financial status, educational level, and literacy rate tended to be consistent with the particular migration history of the ethnic group. By and large, the responding agencies encountered immigrant populations demonstrating low levels of education (elementary school to less than high school) and little to no English literacy. Some agencies from these communities serve districts so large or diverse that no salient pattern emerged from analysis of their own demographics. The diversity of responses from agencies serving urban, heterogeneous communities included the following:

[We serve] refugees and immigrants; all on public assistance, a majority public housing residents. Cambodian: low literacy, few years of education, 10-20 year residents in US. Vietnamese: 5-8 years education, 10-20 year residents. Lao: same as Cambodian. Former Soviet Union: literate, 7-14 years education. Recent arrivals (0-18 months) from Ukraine, Moldova, Estonia, Byelorussia, Siberia and more. English is third language for many. Kosovo: literate in Albanian, 4-8 years of education, in US one

year. All are limited English speakers -- in the beginning levels of English study.

We serve all communities. Our constituents are all residents of our city and other people who are affected by crime while within the borders of our city. We have people of all economic attributes. Most of the immigrant communities we serve have members whose origin is Asia, East Africa, Latin and South America, and the former Soviet Union. Length of time in U.S. varies as well. The Pan-Asian community is rather large.

About one-fourth (24%) of the agencies worked in both urban and rural areas, their geographical areas typically very large, as the service areas often cover several counties and, in the case of one agency, an entire state. These communities were by and large heterogeneous, and clearly evident from the survey responses was the scope of economic and social deprivation common to these populations. The range of experiences as reported by the agencies serving both urban and rural areas are reflected in the following responses:

We serve the entire state of Arkansas. Certain areas have a higher immigration population, including Northwest Arkansas (Washington & Benton Counties), DeQueen in Polk County and Pulaski County in Little Rock. Most of the Latino immigrants in these areas speak very little English and have a fairly low educational level.

Mostly English speaking but we are seeing a rise in other ethnic groups, which include Hispanic, Russian, Japanese, Chinese, Haitian. Many of these are non-English speaking. Education from Master's level to elementary school.

Immigrant and migrant workers, mail-order brides. Many immigrants have little to no income, language barrier is not a problem (we have a bilingual counselor), and education has been leveled at grade school, length of time varied with all women from a few months to years.

Contra Costa County residents are 65% Caucasian, 13% Latino, 11% Asian/Pacific Islander, 9% African-American, and 1% Native

American; 63,000 residents are below poverty level. Our services are disproportionately Latino and African-American in residential services--due to low-income status--although our residential services continue to struggle with language barriers (including Spanish) and finding staff who truly reflect the communities we serve.

Over one-sixth of the agencies (16%) were located within rural areas. These agencies served fairly homogeneous immigrant populations, mainly comprised of Central and South American immigrants, with the exception of one agency located on a remote Hawaiian island, who serve Filipino and native Hawaiians. Some of these communities attracted immigrants because of available agricultural work. Tourism and a service-oriented economy brought immigrants to another rural, resort location. Typically, these rural immigrant communities had fewer educational opportunities and exhibited concomitant low literacy rates. Economic conditions varied within these communities. Some examples are below:

[We are a] Rural Hawaiian island community that formerly had a large Filipino population whose primary income was generated in agricultural labor. Today the relatives of older pineapple workers and laborers have joined their families here. Pineapple industry has died and unemployment is high... The majority of residents are not immigrants however, they are native Hawaiians.

Cache & Rich counties, Utah; victims of domestic violence and rape; a variety of origins, most only speak Spanish, most high school graduates or less, 7000+ Hispanic.farmworker communities in rural South Central Washington state. Mostly female from Latin American countries, primarily Mexico. Many under-educated, low literacy. Females with little and up to zero education.

The remainder of agencies reported serving mostly white and homogenous communities, the immigrant populations making up their clientele composed of primarily

Mexican and Central/South American populations. Educational and literacy rates were similarly meager as the more urban and urban/rural communities. Agencies within this category described most of their clientele as non-English speaking. The Latino immigrant community served by one agency experienced an influx of half of their estimated 60,000 to 100,000 immigrants within the last two years.

Characteristics of Residential and Non-residential Battered Immigrant Women

Over one-third of the agencies that provided shelter to their clients reported that their residents make an average of less than \$10,000/year. No agencies listed incomes over \$10,500. Adult residents were entirely female, typically between the ages of 24 and 38, with an average of two to three children below the age of ten years. Of the shelters that served primarily non-immigrant populations, European-Americans and African-Americans were represented fairly equally. One-half of the shelters related having a mixture of Hispanic, European-Americans, or African-Americans (less than 49% immigrant) . Only one shelter had a client make-up solely comprised of Latina/Hispanic populations. Proportions of battered immigrant women to battered non-immigrant residents varied from shelter to shelter, ranging from 1 in 100, 1 in 43, 1 in 10, and 1 in 5, to 1 in 2.

Non-residential clients, accounting for over one-half of the responding agencies (55%), represented more diverse ethnic and national groups. One-third of the agencies (33%), serving mostly non-immigrant clients (less than 24% immigrant) primarily, were composed of European-Americans and African-American women. The average age of these clients ranged from 30 to 40 years old, with an income ranging from below poverty to \$30,000 and upward. One-fifth of the agencies (21%) that assisted some immigrant

clientele (25% to 49%) reported commonly serving Latina, Cambodian, Vietnamese, Eastern Europeans, Filipino, and Hmong populations. The average age of these women spanned from 28 to 40 years old, with yearly incomes from below poverty to \$15,000. The remaining eight agencies (21%) assisted mostly immigrant populations (50% or more), with two agencies solely providing services to immigrant populations. Their age sets were slightly younger, from 25 to 35 years. They helped women with even lower incomes, ranging from below poverty to \$12,000. In general, an average of two to five small children often accompanied victims seeking help from non-residential agencies, most under the age of ten years.

Accessibility of Services

Agencies were asked whether their services were accessible to both their immigrant and non-immigrant clientele. Two-thirds of the respondents (66%) answered that their services were indeed accessible. Attributes mentioned as valuable contributions toward accessible service delivery were a highly visible and centrally located office, the provision of a safe and comfortable environment, the availability of bilingual staff and literature, 24-hour response service and crisis line, and educational and outreach efforts within local communities. Administrative allowances such as walk-in policies, fee waivers and free service, and longer working hours were generally regarded by agencies as helpful for bolstering client accessibility.

Agency accessibility was conjointly assessed for battered immigrant women in particular. Most providers positively evaluated the complementary use of appropriate cultural context amidst a safe and welcoming environment, combined with an effective delivery of agency resources and services. Multi-lingual staff for counseling, shelter,

legal, and documentation assistance was consistently mentioned. Educational literature in multiple languages, targeted outreach programs which promoted agency visibility, and participation in immigrant community activities were also considered critical elements for battered immigrant women to utilize their services. Some respondents explained in these ways:

Friendly, open, accessible, three locations, Spanish speaking staff. Confidentiality, great staff, consistent service, dedication to domestic violence movement and involvement in community. Recidivism, maintaining clientele/case management, on-going support group and attendance, clients turned volunteers, networking with other agencies and seeing success through collaboration to increase access to resources.

Services for adults are in Spanish, curriculum developed totally within Latino cultural context. Children's curriculum is bilingual.

We are located in the central area where our target audience lives. We are doing intensive outreach continuously.

Agencies reported language barriers as the primary obstacle to accessibility.

Central factors in determining inaccessibility included a monolingual staff, a lack of cultural diversity among workers, and a shortage of bilingual workers and interpreters. The need for multi-language documents and literature produced by both justice system institutions and social service agencies was widely supported. Some respondents elaborated on existing difficulties:

Language barrier is #1, but our staff is not very diverse either: white, single women, middle income, heterosexual, able-bodied. For safety reasons, police bring clients to shelter--I wonder if this is a barrier--seems like it would due to trust issues. [In terms of measuring accessibility] My observations and feedback from community, persons call on hotline, no one can speak to them--this happens too often.

There are barriers that make helping battered immigrant women more difficult. These include language barriers, lack of multi-

lingual documents, limited availability of interpreters, and lack of funds for interpreters.

In the words of one worker, “[o]ver the years I have worked in a human rights office. I have found accessibility is best accomplished by having staff that are culturally representative of the population.” One respondent viewed the organization’s accessibility hampered by organizational ties to other public institutions, particularly criminal justice agencies, promoting a system which filters clients based on a relative sense of their “worth”:

We have to wait to receive permission from detectives and others in order to serve clients. Clients are contacted, judged on how “good” they are--for example, we do not work with women who are involved with crimes, so if a battered woman is also a prostitute or an addict, then we as advocates never even see the case.

Making the Services Known

Social service agencies were queried about the way battered immigrant women found out about their services. The majority of agencies (63%) reported that other community-based organizations facilitated the connections between agencies and future clients. This general referral network linked providers with community centers, immigrant organizations, and neighborhood coalitions. Over one-half of the respondents (58%) cited victim advocates, area shelters, other social service agencies, and women’s organizations as linkable sources. Media exposure, such as radio, TV, newspapers, and circulating literature, was noted as a highly effective means of exposure, almost equal to the number of providers who mentioned word of mouth as a way clients heard about them (47% and 42%, respectively). One-third of the respondents (34%) mentioned the involvement of police in connecting the victim with the agency. Another one-third of the

agencies reported emergency departments as a vital link for streamlining victim services. Members of clergy and representatives from the victims' religious communities were listed along with the help of the judicial system/courts by one-fifth of the agencies. Other ways in which agencies stated immigrant women learned about the services were through school visits, presentations, and agency exposure at fairs and expos. Across the board, agencies attributed their accessibility to vigilant efforts to increase their agency's visibility and the quality of their connections and relationships in the community. For instance, one service provider ascribed accessibility of her agency to inter-agency cooperation and a savvy staff coordinator:

Our Community Educator has relationships with community leaders, law enforcement personnel, school administrators, medical and social service personnel, and works directly with them and provides information to them as it relates to domestic violence. This is an ongoing effort and is extremely successful in reaching the community we serve.

Defining Success

Agencies were asked to discuss how they defined success when working with battered immigrant women. A frequently occurring sentiment expressed by a third of the agencies (32%) was giving the victim vital information and referrals that will both assist her situation and extend her support system, ultimately empowering her to make her own decisions and to try to take steps that will help her live a violence-free lifestyle. The respondents evidenced their approach as follows:

At this point, success in working with battered immigrant women clients means giving them information about support systems available to them. It is empowerment. The key is listening to what each person's main concerns are and offering options that are relevant.

By explaining various options that they have and are entitled to, especially the laws that protect them here in the U.S.

Also mentioned by one-third (33%) of the agencies as of successful was the ability to maintain contact with the client and develop a trusting relationship that would enable the giving and receiving of friendship and support. This relationship could then facilitate a safe, permanent resolution for the women's abusive situation. Invariably, this relationship means perceiving the victim/survivor as an individual. Several agencies mentioned that a sign for establishing trust with a client is when the victim calls back, uses their services more than once, or refers their services to another potential client:

We define success by whether a woman is comfortable/willing to use our services whenever she needs them. We have served successfully if a woman uses our services repeatedly. If we don't provide quality service to her, she won't come back. We have bi-lingual, multi-lingual staff, try to be flexible with guidelines, to be respectful of the cultural norms of our clients.

It is important for the victim to see a connection with their helpers, especially in the early stages. Language/communication is very, very important. Trust is essential.

A hard-working, culturally representative, well-trained staff with the administrative capacity to interact with the client without the need of an interpreter was reported as an advantage in equal frequency with the advantage garnered from coordinating and partnering relationships with local and statewide organizations (21%). Another viewpoint highlighted the benefits gained from working closely with community advocates and building a cooperative triadic relationship between the agency, advocate and client:

I define success by being able to stay in contact, offer referrals that she may or may not access and receiving phone calls from her. If she calls me, that means she trusts me enough to talk to me. When

things work, I attribute it to the work of the community advocate to link us up and the rapport between the three of us.

Agencies also measured success by achieving certain quantifiable goals, such as the number of approval notices from INS, gaining permanent residency for battered women, orders of protection issued, custody granted, VAWA self-petitions approved, homes and apartments procured, jobs found, and personal goals of the clients attained. One-third of providers (34%) reported that their success is defined by treating domestic violence holistically. This was accomplished by involving the participation of the entire family (apart from the abuser), addressing trauma specifically related to immigration and culturally shaped violence, and aiding the victim in multiple arenas in order to cultivate healthier living:

I realized my goal is to provide women with the tools to become successful, capable and able to create positive change, learn new coping skills, change unhealthy behaviors, and how to keep children and ourselves safe. There is no room for violence.

We try to provide a seamless web of support and address the multiple needs of our clients, from emergency cash grants to housing to children to legal to any other issue identified to us. We work closely with community-based organizations. We provide access to service regardless of income (battered women are often married to men with money they have no access to). We have native speakers of a number of different languages on staff.

Some service providers expressed dissatisfaction with their level of service, or found success within some areas of their service delivery, and little to none in others. One provider defined her agency's services in respect to battered immigrant women as "poor--I have very few cases. I know violence is occurring in the community but the cases do not come to my office." Some agencies lacked organizational competency to reach out to immigrant populations. One agency experiencing this problem explained,

“[we] have had no success due to not knowing what services were available to them.” As mentioned earlier, a client’s success was often contingent upon the outcomes of other agencies and institutions.

Collaboration with Other Agencies

The overwhelming majority (92%) of agencies responded positively towards working collaboratively with other community organizations. Social service agencies most frequently reported that immigrant organizations and community-based organizations significantly contributed (55% and 47%, respectively) to the outcomes of a successful experience for an immigrant battered woman. One respondent elaborated as follows:

The relationship is with community-based organizations. They help with translation, information on cultural norms, and support groups. Since we are an institutional program rather than a grassroots one, there is little that can be done sometimes. I would say that the community organizations really step up and get things done.

Almost one-half of the agencies (47%) regarded the use of referral networks and community hotlines (e.g. suicide lines, information lines, domestic violence lines, etc.) as a means of facilitating inter-agency cooperation. Law enforcement and the court system were mentioned as collaborative participants with almost equal frequency as women’s shelters (34% and 32%, respectively). One-fifth of the agencies (21%) mentioned local community leaders and women’s networks proactively working with them, as well as grassroots legal organizations and local bar associations. Active communication with local churches and state government social service agencies were equally noted by another fifth of the agencies. In terms of other collaborators, almost one-third of agencies regarded domestic violence networks and coalitions as significant members of a

cooperative community. One-eighth of the agencies related the collaborative contributions of health departments, clinics, and members of the medical community. Joint efforts were also noted between social service providers and local colleges and universities.

Specific Services for Battered Immigrant Women

Agencies were asked to enumerate the specific services they offered to battered immigrant women, and list culturally appropriate and socially responsive services. These types of services were quickly becoming part of agency consciousness in response to victims. There was an awareness of widespread governmental and social service deficits for immigrant populations. Over three-quarters (76%) of the agencies responded that facilitating appropriate referrals to their clients was a primary function of service delivery. One-half of the agencies surveyed provided some form of legal/court advocacy and legal assistance (including court accompaniment and protection orders), and a small portion of the agencies offered direct legal representation. About one-quarter (24%) of the agencies reported having full or part-time interpreters and/or translators on staff. Seven of these agencies offered some form of legal assistance in conjunction with interpretive services.

Further, a quarter of the agencies related providing medical advocacy, police advocacy, and housing and welfare advocacy. Counseling services, either group or individual, were offered by two-fifths of the agencies interviewed, as were the provision of basic needs such as food, clothing, shelter, and transportation assistance. Another common service provided by agencies was domestic violence and immigration-related documentation assistance, such as writing general letters of support, offering clerical and

legal help for VAWA self-petitions, and assisting in the gathering of documentation for other immigration cases. Native language support groups, native language information and emergency lines, housing placement for immigrant women, and accompaniment to court, hospitals, and police stations were also listed as services in the process of burgeoning or already in place. Services least likely to be available were job training/English literacy programs and childcare services.

In order to receive these services, agencies were asked to specify the conditions or criteria which battered immigrant women must meet to qualify. A quarter of the agencies (24%) responded that there were no pre-qualifying conditions for their organization. Over half of the respondents stated that their clients must have undergone abuse or a domestic violence situation to be eligible for services. Infrequently reported were requirements for a police report and/or investigation prior to commencement of services, or for clients to be able to speak a particular language or to be of a specific ethnicity to qualify for help (such as assisting Spanish speakers, or serving only Southeast Asians). Only two agencies reported that they do not/cannot provide shelter without age requirements (must be able-bodied, over 18 years of age or accompanied by a parent or guardian) or that they provide shelter only to those who can meet living area requirements for service delivery.

Declining Services to Battered Immigrant Women

Agencies were asked to consider under what circumstances would they decline services to a victim. Almost two-thirds of the agencies (63%) answered that they would not decline services or that they had not yet been in a position to do so. For the one-quarter of the agencies that had to decline services, most cited a lack of resources, either

in funding or staffing, as the cause preventing them from providing services to potential clients.

Denying service became apparent for those providers whose funding comes from government-sponsored initiatives which imposed rules that could make accessing services more difficult for undocumented battered immigrants. For instance, one respondent explained as follows:

Transitional housing applicants who could not legally work in the U.S. at point of application for housing were turned away since HUD (Housing for Urban Development) requires that residents work while in the program (even part-time) to show “improvement” during the time they are in the program.¹

Organizations gave varied responses when asked for a general definition of failure. One organization replied, “Family violence continues.” Another responded, “We aren’t serving battered immigrant women, this shows we are failing.” The inability to provide the needed resources because of infrastructure problems (limited financing, few translators, shortage of personnel) was most frequently cited as definitions of failure. Loss of contact with the client, especially those who return to the abusive situation for what could be a variety of reasons, was also mistakenly perceived as organizational failure. Some agencies regarded these failures as a consequence of a breakdown in communication due to cultural differences, and of the victim’s feelings of fear and alienation interacting with a complex and unfamiliar system. The respondents describe the communication barriers:

Women who we don’t successfully serve, she won’t come back when she needs assistance. Failed when we can’t easily make services available to her in her first language or in a culturally relevant context.

There is a feeling of alienation when there are communication barriers. People feel cut off. Some women have gone back to their abusers because it is too hard to leave.

One agency attributed failure to the political structure and decision-making of communities that do not comprehend the plight of the immigrant populations who dwell within their borders:

Persons of color agencies suffer from lack of funding and political power in communities like mine where the majority of elected officials are white males. They often do not understand what the needs of immigrant/refugee populations are.

Another respondent described failure as the battered woman's inability to successfully disengage from her abusive situation, thus undermining agency supports. Familial pressures and cultural ideologies may place blame on the victim for leaving the home and/or prosecuting the abuser. The attendant loss of support from her family and community may be sufficient reason to return to the abuser. One respondent explained the impact of family and community:

Failure is when the client did not get any support from her family and is forced to go back. This happened because of traditional beliefs in the Hmong community.

Other explanations for failure included the following: doing too much for the client (beyond advocacy) and recreating victim dependency, abiding by overly restrictive rules and protocols, and providing effective solutions due to a lack of training or inconsistency in law enforcement and judicial practices.

Typical and Atypical Requests of Battered Immigrant Women

Over one-half of the agencies (53%) reported that typical requests garnered from clients were for information about, and assistance in obtaining legal services. One respondent stated: "Most immigrant battered women that we serve are in search of

emotional support, and need assistance in understanding the law and discovering the options that are available to them.” Informing the victim of her legal rights and reducing the client’s sense of isolation and confusion play dual roles in this process. Agencies act as translators between the immigrant victim and the immigration authorities and the judicial system. In so doing, requests for legal assistance by immigrant battered women are both numerous and diverse in nature, as one agency describes the make-up of typical requests fielded by her clients:

[We offer] help negotiating INS, green card issues, collecting SSI benefits from deceased husband/batterer, accessing benefits, housing, welfare TANF benefits, employment, providing understanding, nonjudgmental person to listen, legal advocacy, interpreters for various meetings.

Other legal services included functions such as providing advocacy for protection orders, help filing VAWA self-petitions, writing support letters for immigration, and finding pro bono attorneys for divorce, custody, and child support issues. Agencies were often asked by clients to provide a sense of “judicial and institutional understanding” to what can be an intimidating, time-consuming, and labor-intensive process.

The demand for legal advocacy bridges over to the need for housing and housing assistance. Frequent requests for referrals, advocacy, and bed space for shelter, transitional housing, and government-subsidized housing were noted by one-third of agencies surveyed (34%). One agency stated, “Without affordable housing females are unable to leave.” Furthermore, the majority of agencies (63%) stated that obtaining referrals for and services to adequate healthcare and clinics constituted another central concern for battered immigrant women. Not surprisingly, about one-quarter of the agencies mentioned part of their work is providing emotional and therapeutic assistance.

Job training and employment assistance, childcare needs, transportation assistance, and financial help were also highlighted as frequently requested services. General information regarding domestic violence, the cycle of abuse, and help dealing with a violent spouse was reported as a frequent request by one-quarter of social service agencies in this study (24%). One provider from Hawaii described a typical scenario of a crisis situation at her agency as follows:

A woman has been beaten by her alcoholic spouse. He has the family position of power and she might be a newly immigrated "picture bride" (yes, we still have a lot of picture brides here) with no family or friends. A neighbor might hear her yelling and call the police or the crisis line. If I get the call I try to return the call by phone and assess the extent of police assistance needed at that time. (I usually call 911 because some of these guys are pretty wild after they have been drinking) I meet the caller (or victim) and do my best to secure safety for her. My best friend is also bilingual so I don't have too much trouble finding an interpreter. Later on if the woman wishes, we enter into a therapeutic relationship for several follow up sessions. I have had to meet these women at parks, at the beach, or at some other secret spot as they fear anyone on our small island knowing they are seeing a counselor. The most common "issue" I deal with in this population is suicidal ideation, eating disorders and depression. Generally these women cannot leave their spouses until they have been married a few years. Yet, some actually do divorce later on in the marriage when their spouses leave them (and kids) for other women.

More atypical requests from battered immigrant women took on a number of forms. Victims' requests for funds to return to their home country or to relocate out-of-state were reported. Further noted as atypical requests were emergency cash grants/loans and seed money for building small businesses. Agencies received solicitations from clients for counseling programs for batterers or for the family as a unit. More problematic requests such as help to legalize a batterer or mutual abuse situations

wherein a male victim or a child victim is involved were uncommon, but nonetheless genuine, scenarios social service agencies encountered.

Barriers Precluding Agency Service

Respondents were asked to list barriers to the delivery of service to battered immigrant women. Their responses identified several categories of obstacles:

Client/Victim Obstacles

Language barriers prevent immigrant women from accessing services they are eligible for and need. Being unable to communicate means surrendering self-determination, informed decision-making, or a modicum of control over one's affairs. Another major obstacle is fear of the consequences inherited in disclosing abuse. One-fourth (26%) of the respondents, both documented and undocumented women, listed the fear of deportation by the INS as a reason not to contact the justice system. Correspondingly, this fear and the possible consequences such as losing one's children, being arrested and incarcerated, or the court's finding that the claims of abuse are unsubstantiated, minimal, or deserved, "can cause paralysis and lack of action to better their circumstances."

When social service agencies were asked if battered immigrant women were reluctant to report their stories or seek help from official authorities due to fear of reprisal or action against them, three-quarters of respondents (76%) replied in the affirmative. Most saliently noted by service providers were comments regarding the fear of official intervention that will result in deportation:

They're afraid of the police. I can't hide my association with the police. No matter how much I downplay the association, it's still there. That is a major hurdle to overcome. I also make mistakes

culturally sometimes, which although they're unintended, they're still there.

Respondents repeatedly reported inappropriate and overtly biased intervention from police officers, child protective services, and other criminal justice agents:

I have experienced much reluctance in this area and have had police and CPS (Children's Protective Services) intervene inappropriately in some occasions, which reinforces this fear. (e.g. woman called hotline due to DV). Divulged her teenage daughter was being molested by her husband. We made a CPS report and offered to shelter her—rather than giving her and her children that option, CPS removed all 7 of her children--she was at risk for retaliation, because CPS investigator didn't speak Spanish and said it was mom's "failure to protect."

Almost one-fifth (16%) of the agencies recounted that a battered immigrant woman may not know what her legal rights are because of differing cultural conceptions of the law and women's rights. Disparate views regarding the degree to which spousal abuse is "acceptable" or "justified" will also affect how a victim is seen and supported by her community. Cultural conceptions of abuse (or not abuse) and indigenously constructed gender roles determine the extent to which the victim's community will validate, ignore, or openly disapprove of her decision to leave the abuser. Family and community pressures were cited as recurrent obstacles to delivering service by one-tenth (11%) of the social service agencies:

Hmong community does not see domestic violence as a problem. Domestic violence is a family issue, therefore [one] should not seek outside help. Lack of support from aging Hmong people.

Lack of support from community--families and clan leaders. Obstacles because this causes clients to go back to abusive relationships.

If a husband is arrested, oftentimes the rest of her family--the only community she knows, turn against her.

Another fear for the battered immigrant woman is the abuser's use of her conditional or undocumented legal status as a control and manipulative tool to either compel her to return home or prevent her from leaving. It is not uncommon for the abuser to threaten to deport the victim without her children, leaving the woman terrified and paralyzed to act. One provider stated "Her primary fear is the husband and family [rather] than authority." Abuse dynamics and threats made by the abuser regarding the victim or her children constituted almost a quarter of repeated cases seen by providers (24%). Not only do these control techniques deter the victim from taking appropriate action, thus, fostering a sense of powerlessness and lowered self-esteem, but they also create an intricate web of various fears, which sabotage her efforts to leave or become independent. Some respondents explained as follows:

Marital rape, immigration status used as a control tool by batterer, fear of losing custody or access to children, lack of knowledge regarding U.S. laws and rights, fear of doing something that might get them deported.

Abusers threaten partners with deportation, threaten to run away with the children, understanding their rights, accessing entitlements, difficult for a battered immigrant woman to work [if she has] several children, must access social services.

Yes, the women are terrified. Sometimes they prefer to capitulate and return to their husbands to get their INS papers.

Particularly entrapping obstacles reported by the agencies were poverty and meager resources, dependent children, and few friends and family in this country. When a protective order separates the victim from her abuser, it can simultaneously leave the victim with no financial support, particularly when financial remedies like child support and spousal support are not included in the order. Over one-quarter of the agencies listed

the harshness of these obstacles for providers and clients alike. One respondent described the financial barrier for immigrant women:

Monolingual, non-English speaking women with more than three children and little/no employment--makes it very difficult to move from shelter to independent living.

Agencies were asked to identify special issues regarding immigrant children.

Over one-half (53%) of the providers considered immigrant children's issues significant, and a gamut of specific concerns was listed. Language barriers and cultural differences constituted problems reported by almost one-fifth (18%) of respondents. These problems often served to exclude children from assimilating to their environment. Children who do not speak English fluently will have difficulties at school and will suffer the disadvantage of being unable to attend school on a regular basis, largely due to trying to respond to the turmoil and change in their lives. The problem of using children as translators was another major concern. Immigrant children from homes with domestic violence are usually more knowledgeable of the dominant language than their parents and are often used as translators and intermediaries between the mother and the outside world. This poses avoidable damage to these children, particularly when police, courts, and social service agencies use them to translate rather than investing agency resources to pay for qualified translators. The agencies that cited this as a problem (16%) identified the role of translator as one fraught with repercussions and responsibilities too great for a minor to handle:

Children often end up translating for the parent--puts them in a parentified role, creates fear in children.

Big problem are [the] adults who ask children to interpret for their parents--"the easy route." In domestic violence this is very traumatic for children.

The kids are very wary of us [the social service agency]. They're also being used as translators, so they're often falsely exposed as a result. The kids do not often tell the parents the truth when they're involved with proceedings because they are savvy about what's going on.

One-fifth of the respondents mentioned that children of battered immigrant women often experienced lower standards of living, sometimes abject poverty, because of their abused parent's legal status. Lack of employment authorization from INS inhibits the abused immigrant parent's ability to find living wage employment. Immigrant victims also have less access to public services such as basic medical care, psychological assistance, and social services. The children of battered immigrant women suffer from many of the same anxieties as the women themselves--fear of deportation and fear of abduction by the abuser. Children's problems become intensified due to the multiple pressures of domestic violence, cultural clashes with immigrant parents, and acculturation. One agency articulated the children's struggles:

Same problems often as adults... But as youth they have issues of culture, often becoming Americanized and then have conflicts at home with parents/grandparents. They have a lot of competing pressures. Poverty also traumatizes them more, and gangs, racism, and "white culture".

Children's behavior problems were identified by almost one-fifth (18%) of the agencies surveyed. The reasons given for the difficulties ranged from maladjustment to the dominant culture to estrangement from their community because of the mother's stigmatized and "blameworthy" decisions. One respondent stated that the "[p]arents' status in this country affects children's sense of security," causing them to act out and emulate the behavior of the abusive parent. "Witnessing and being encouraged to be violent results in the bullying behaviors," noted one respondent. Another provider

described how a child's behavior not only can be detrimental to his or her own development but also may negatively affect the mother; "children's behavior problems alienate the female from other women."

Undocumented Women

Agencies addressed the vast difference between resolving cases for undocumented women and cases for documented women. Indeed, one provider commented, "[e]verything you do you must consider the impact on status." Almost half of the agencies (47%) agreed that immigration status, particularly those without legal immigration status, negatively impacts a client's case resolution and her access to resources. For immigrant victims of domestic violence who are naturalized citizens, the public benefits system and an underlying support system of services may be available. For undocumented battered women, this is not the case either because these victims do not qualify for public benefits or because the victims, justice system personnel, and mainstream social service providers wrongly believe that undocumented victims do not qualify.

Moreover, agencies who work with undocumented victims see their disadvantaged immigration status as exponentially increasing their fear of the criminal justice system and their ability to survive on their own. One provider explained, "When a woman does not have legal residency, it is more difficult to convince her that she has certain rights that will enable her to stop the abuse in her relationship, and that she can leave her abuser." Language barriers, abuse at home, and the lack of financial resources combine with little to no support from state and federally funded resources and labor restrictions prohibiting her from finding legally gainful employment. For undocumented

battered immigrants, even those who qualify for immigration benefits, fear of deportation, whether perceived or real, bars access to a wide range of services that forces them into the informal economy. Some providers described the following:

Undocumented females absolutely do not want to work with us for fear of deportation. Females waiting for green cards are hesitant to work with us because they're afraid it might jeopardize their status.

If a client has a green card, less work is involved. They are able to access benefits, jobs, housing, driver's license, etc. Women who have green cards are less fearful, especially if they have been here and have a job, etc. A case where a female is undocumented, doesn't have a job, and doesn't speak the language is much more difficult. These females are more likely to go back to their abuser. Support is difficult. Females without status are less likely to pursue legal recourse.

Yes, [undocumented women] cannot work, cannot access social funds, therefore no means of financial support--this contributes to her returning to her batterer; not trusting the system and/or sometimes our agency--fear of being deported; registering their children in a new school; accessing medical care.

Resolving [a case] means, "living a life free of domestic violence" according to our mission. Citizens can obtain state-paid daycare, cash benefits, etc. Immigrant women have so many obstacles it's overwhelming to think about. I can't imagine living it. Haven't seen an immigrant reach our mission statement goal.

Undocumented battered immigrant women bear the additional burden of having to prove, through official documentation, that they are eligible for a VAWA self-petition in order to gain a legal permanent resident status. According to the agencies, the process of gathering such documentation for an undocumented immigrant women is oftentimes inherently defeating by the very nature of her situation: not being believed by the police; the stark reality of possible criminal charges being lodged against her for "mutual battering" as a result of prejudicial police practices; the abuser withholding papers she needs for her immigration case to prevent her from taking action against him. One

respondent stated that they encountered situations in which the same abuser must verify her paperwork and/or documentation. Other respondents reported obstacles for VAWA self-petitions in the following remarks:

Yes, if their status is in question, the clients need much more multi-disciplinary involvement to get the case resolved. It can be harder to get financial help and it can be difficult to get counseling/group support that would help prove the VAWA case. If the client speaks a language other than Spanish, it is very hard to find a qualified interpreter.

They fear being deported so they are less likely to come forward and report the abuse, if they have fled the abuser they have less documentation available to serve as evidence for the [VAWA] self-petition.

Agency/Organizational Obstacles

Respondents stated that it is not uncommon to find within their own social service agencies and neighboring service systems discriminatory practices. Pithy comments such as the statement, “racist service systems exist,” as well as more detailed descriptions, were reported. For instance, one respondent gave this description:

We have a “multi-cultural” advocate who is lazy, sexist, and racist. We have had to go to our supervisor and his superiors many times, with no results. The rest of us rarely get cases involving battered immigrant females and when we do, the response varies according to the advocate assigned. Our supervisor has engaged in a willful pattern of discrimination such as refusing to pay to have letters and information translated into other languages.

One respondent listed the dynamic of abusive relationships and victims’ help-seeking behavior patterns as a cause of frustration for a social service agency staff:

They change their mind on divorce/custody, reconcile with partners, many times after many resources have been spent on the victim.

About one-fifth of agencies (21%) reported that the client's lack of trust in them (as outsiders) presents major difficulties for moving forward with a case and bringing about its resolution. For instance, "[w]omen may find it easier to trust abuser from their own culture than counselors and lawyers." Emotional traumatization, insular cultural environments, lowered self-esteem, a fear of the unknown, an awareness or perception of biased and unsympathetic systems of government may all be circumstances that play a role in engendering feelings of distrust.

According to the respondents, not having enough qualified, impartial interpreters signified that agencies must evaluate and ultimately question the veracity of the information they received from the translator for the victim. Problems may arise when a family or a community member interprets for the victim--the agency may be hearing a filtered or biased version of the victim's account or wishes. This issue becomes further aggrandized and detrimental to the victim during interactions with justice agents. Several agencies contextualized this issue as follows:

Clients who speak no English--working with one in particular (Hispanic) and the abuser's aunt is constantly with her and insists on interpreting for her. I sometimes question if the client is getting all the information. Also the aunt-in-law may have ulterior motives--possibly including partnering with the abuser. Language is a huge barrier.

It is extremely difficult to serve people from very small, tight-knit communities. In our city, the entire community is rather small. All of the interpreters for Tigrinya and other languages came from that community. Clients are understandably wary about information getting out to the community and it's very difficult to locate impartial interpreters.

Agencies also expressed difficulties dealing with culturally bound actions on the part of immigrant women that, in their view, seemed antithetical to a victim's needs. For

instance, in the day-to-day running of a shelter, cultural differences between immigrant and non-immigrant women, residents and staff, became starkly apparent. Examples of the difficulty in not cultivating biased perceptions (and hence, treatment) of minority cultural differences that are at odds with tacitly understood majority values are as follows:

Language barriers, lack of understanding (our own and that of institutions i.e. cops, judges, etc.), on our own staff, for example, we struggle to understand a tendency of Korean women who want to give custody of kids to abuser--we've needed to educate ourselves on the reason for this tendency and how to address women's concerns.

Differences with cultures. Example: other women [at the shelter] saw a woman getting food out of the trash. They didn't understand her background, poverty in homeland, how this might have been "normal"; issues such as physical discipline, staff and clients don't understand.

The service provider often negotiates between the client's cultural belief system and bureaucratic service agencies and the justice system. This is an imprecise, interconnected arrangement in which a battered immigrant woman's success relies upon the cooperation and efficacy of each institutional link. As such, agency obstacles become apparent when any one of these links fails the client--neglecting safety issues that are culturally-related basic needs. One service provider witnessed that her agency's efforts to help an immigrant victim fell short of its intentions because of a general lack of social infrastructure compounded by bureaucratic inefficiency:

We provided service to a Latina woman who came to our office holding a piece of paper with our address only. She spoke no English and she and her children had not eaten for 2 days. We found no help at shelter or local programs. We had a city employee who interpreted for us and we found her safe housing. When we went to shelter 2 days later, they had no interpreter and again city staff interpreted.

The social service providers, who have to engage in multiple processes, experience lack of trust, communication, and consistency on the part of the client, while simultaneously advocating for her needs to institutional personnel with variant and often conflicting trajectories. These providers understandably suffer significant occupational stress when they lack the tools, skills, and knowledge of legal system and social service system options for abused immigrants. One provider related the following:

It takes a lot of time to work with battered immigrant women for a small staff. Burnout is always an issue--more so when cases get difficult and attorneys are not always accessible. We are only beginning to get involved more with battered immigrant women--3 years ago we worked with one female and since then we added twelve more. For our rural area 12 seems like a lot, but we know there are more. It's difficult to know what to do when a woman has no status. Accessing attorneys is difficult. Immigration law is not popular.

There are approaches to working with battered immigrants that can reduce these stressors for service providers. Redefining the providers' expectations of "success" can help, as can gaining a fuller understanding of the range of assistance available even to battered immigrants who do not have or are too afraid to pursue options for legal immigration status.

The Justice System

Service providers repeatedly provided complaints of the justice system as being openly mistrustful of non-English speakers, class-biased, and conspicuously insensitive towards issues that face battered immigrant women. Women who cannot communicate their needs to justice system officials and who may be uninformed of their rights or how the justice system operates, are subject to misunderstandings and undeserved judgments by officials as to the veracity of their claims or the seriousness of the abuse.

Correspondingly, the victim's fears of reporting to authorities because of potential reprisal from the abuser or fears of being deported lead to significant underreporting to the police and to minimizing the evidence of the abuse in court. These forces work against each other and foster a pernicious cycle of fear, suspicion, and mistreatment. Providers commented upon the general inequity of the present criminal justice practices and the impact of these practices on the immigrant victim's access to fair adjudication on her behalf:

It's very difficult to dispel the fear, especially when things move so slowly. It's difficult for immigrant women who fear authorities and the legal system. Even non-immigrants are afraid of the system. It's helpful in some cases if the judges are women. Bias is difficult especially when it involves the police. If courts are not knowledgeable about the fears and apprehension that battered immigrant women have, they are often seen as uncooperative instead of afraid. If a husband is arrested, often times the rest of her family – the only community she knows turns against her.

Because it demonstrates the obvious inequities in the justice system. Those who are fluent in English, more educated, more articulated and with financial means always seem to persevere and those without the above suffer and are truly disadvantaged.

I think that there's a lot of moral judgments made by criminal justice agents and that many times women who are not judged to be good (they're "illegal") are shunned as a result.

Biased policing practices towards battered immigrant women were mentioned by two-fifths of the agencies. A victim's credibility was questioned if she did not speak English. As well, a victim's right to protection by the police (through the enforcement of a protection order) was perceived by agencies to be "less important" for police when dealing with immigrant women as opposed to non-immigrant women.

Often they [police] are misogynists, they are ignorant of the law, no determination of due process and lock up victim and abuser. They are angry about abuses of emergency procedures by a

minority of women. They help men do extra-legal things; they don't help women do legal things; they use any excuse possible to not enforce protective and emergency custody orders.

Several providers cited dual arrests as being more common in immigrant domestic violence cases than non-immigrant cases. One agency commented that immigrant clients "who have fought back--police are not as likely to believe." Other providers stated the issue as follows:

Dual arrests are more common where battered women are non-English speaking. DA's/police/judges may find immigrant women less credible due to language/cultural differences.

Dual arrest; local police acting as a border control--more interested in immigration status than crime scene.

Police continue to not charge men, even with sufficient evidence; police use the term 'mutual battering' and arrest women as well, fail to understand women's actions in terms of self-defense; police do not always enforce restraining orders; have heard countless stories of women not being believed.

Several agencies commented that justice system officials in their communities acted more like INS agents than law enforcement personnel. One respondent evidenced the following:

The police are often misinformed and try to screen females for their status. They need to be trained differently. Some prosecutors even use the INS as a threat to try to get women to cooperate in prosecution.

Miscommunication between languages inevitably causes cultural misunderstandings and tendencies on the part of institutional actors (judges, police officers, service providers, etc.) to favor those who speak English. Providers were aware of subtle and overt discriminatory practices within the justice system towards non-English speaking clients in domestic violence cases, particularly during police-victim

interactions and in the courts. For instance, as for police interaction one provider gave the following account:

With 18 different law-enforcement jurisdictions, some are helpful on both fronts, some are not. Helpful by believing clients, by bringing them to us or following up with them to make sure they've received support. Not by police writing that a woman was "non-compliant" which meant she was denied victim witness money later on--in fact, the police did not attempt to speak with her in her language.

Within the judicial system, some respondents noted the following:

Language--jury trials with a victim who uses an interpreter is much more difficult to secure convictions. Jurors respond more favorably to words/emotions directly from victims' mouths, not through interpreters.

Judges who exhibit conspicuously their biases against immigrants or their intolerance/impatience with non-English speakers.

According to the respondents, lack of legal immigration status combined with language barriers to reduce immigrant victims' access to documentation of past abuse. Since their immigrant clients could not communicate and feared deportations they did not report abuse to the police or health care professionals. For example, one respondent related interpretation issues critical to court access for immigrant victims:

The courts are woefully ill equipped to do language translations and won't accept [our] program's bilingual staff as valid translators in court.

Correspondingly, within the criminal justice systems there is an urgent need for qualified, impartial interpreters and attorneys who speak both the victim's first language and English. Such shortcomings in judicial resources and budgetary priorities further alienate a battered immigrant woman from the legal system, thus creating an untenable

situation for them. One service provider commented how lack of access to interpreters indirectly force the victim to make the quickest, allegedly “least painful” decisions, without ever being properly informed of her choices and of the effect these “less painful” options could have on her immigration status and life:

No interpreters. Battered immigrant women freely sign waivers for public defenders when they are charged with domestic violence/assaults against their husbands or children. Battered immigrant women don't understand the system and just go along with what seems easiest, i.e. sign waiver to counsel, enter guilty plea.

Arrest/plea/probation without counsel or adequate advocacy. Not eligible for court appointed counsel due to law, not connected with services, not considering self-defense.

Limit victim coming to court to testify, staying in contact with prosecutor's agencies, charges are dismissed--battering, prosecutors do not follow-up with victims effectively.

Social service providers stated that the justice system ignores critical issues such as the hiring of translators, bilingual officers, clerks, judges, and prosecutors. Other issues pertained to offering classes for justice agents in the basics of a second language, translating official documents, and conducting mandatory educational workshops for officials and the public at-large on multi-cultural domestic violence. For instance, one provider set forth the following:

The criminal justice system is designed to protect the accused rather than fact find and render justice. This is a fundamental problem that prohibits the system and its policy makers from adjusting or adapting the system to meet the needs of victims. Clearly there is a need for education of police officers, judges, prosecutors, or clerks about domestic violence and women's responses under these conditions.

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Rating the Criminal Justice System Response

Evaluating the criminal justice system overall, agencies were given a scale from 1 to 7 to rate efficacy (1 being very poor to 7 being excellent). For their clients in general, agencies responded with an average score of 3.9. For battered immigrant women clients, agencies rated the criminal justice system with an average score of 3.3. Agencies were also asked whether or not they considered the criminal justice system helpful to battered women in general and battered immigrant women in particular. For battered women in general, only half of the agencies saw the criminal justice agency as helpful. For battered immigrant women in particular, only a quarter of the agencies answered affirmatively.

Providers were also requested to comment on what kinds of current justice system practices they perceived as supportive to agency goals and to battered immigrant women in particular. A number of agencies volunteered innovative changes occurring in their communities. For instance, “[t]here was an attempt to put together a resource manual for police officers to carry in the patrol car on who to call for culturally appropriate victim advocates.” Domestic violence units which coordinated trainings with other law enforcement personnel and criminal justice agents were described as positive changes, as well as police who referred clients to social service agencies and in turn, acted responsively to requests for orders of protection and other services. Further mentioned were police officers and police chiefs who invested time and energy in dialogue with immigrant communities in their areas and in getting to know their members (male and female), one-on-one.

Criminal justice agents were evaluated as helpful in some cases, (e.g., “I have seen women treated with respect and knowledge”) and damaging in others. With regards

to positive aspects of the criminal justice system, respondents reported an availability of translators in the courts, a state-funded language line contracted through AT&T, and community-wide advertising campaigns promoting domestic violence awareness. On the other hand, providers criticized criminal justice agents for misinforming the victim--particularly with regard to how criminal charges affect VAWA eligibility and immigration status. Criminal charges can help in some instances and harm in others, depending on the facts of each specific case and the options available to the victim.

Some providers explained as follows:

Criminal justice is helpful in that they provide for safety of the victim and children. However, arrests and convictions often cause problems with status of the victim. Females are frightened that males will be deported and not see children again. It's difficult to explain to a battered immigrant woman that criminal charges can't be dropped.

An equal amount of criminal justice agents are extremely helpful and others are not helpful at all--sometimes they are intimidating to our clients. Sometimes these agents give incorrect information and offer no support to clients.

Some agencies viewed problems within the criminal justice system as distinctly affecting the poor and not necessarily only immigrant populations. Respondents pointed out that there are non-immigrant women who suffer as well:

Criminal justice system is as attentive to immigrant battered women as it is to non-immigrant battered women. There are various problems like response time, follow up, perpetrator accountability, but this is true in cases regardless of immigrant status.

Very poor--language problems, address English people poorly as well. The system is class based and has bias in a number of ways that affects outcomes.

Interacting with the INS

Bureaucratic obstacles related to advocating for clients with the INS pose further impediments for social service agencies. Several agencies commented upon the frustration and powerlessness caused by not being able to get in touch with an INS representative. Keeping pace with labyrinthine regulations and guidelines pertaining to immigration law practice was also reported as a barrier by some agencies. One respondent described the difficulties:

The obstacles with legal issues are huge. The INS is a huge bureaucracy and immigration law is very confusing. I find I can't always answer questions about the INS and need more resources about that. For example, public benefits, I once told a young female that she wasn't eligible for prenatal care, which wasn't true. I didn't have accurate information to give her, although I thought it was correct.

Precautionary Measures and Confidentiality Issues

Battered immigrant women often question the kinds of precautionary measures social service agencies can employ to address their concerns and assure their safety. They also have concerns about the confidentiality of the communications with social service providers. These concerns include the threat of deportation, the risk of losing one's child to the abuser or to the state, the fear of homelessness, poverty, and community ostracism, the chance of losing confidentiality to an imprudent translator, and the fear of (violent) reprisal from one's abuser. About one-third of the surveyed agencies (32%) stated that safety planning was a primary tactic used by agencies to protect women who were not choosing to leave as yet, to prepare women to leave an abusive home and to safeguard any children and then for when they do leave.

About one-tenth of agencies reported there were no significant differences between the immigrant and non-immigrant woman's safety. However, critical issues specific to battered immigrant women's safety plans included safety concerns related to the abuser and the immigrant community (74%) and immigration status (45%). Securing orders of protection for herself and her children, discussing relocation, shelters and safe houses, protecting legal documents, and how understanding the effects, if any, on the woman's immigration status leaving or taking action against the abuser were all reported as integral parts of this process. Crucial issues for immigrant women discussing their escape plans constituted the fear of losing their children or their green card, fear of their abuser, and accessing the justice system for help. Several respondents addressed confidentiality and safety concerns for battered immigrant women living in small, tightly knit ethnic communities:

Women from small ethnic communities may not be able to hide as effectively in some geographic regions. (We have helped clients relocate to NYC and from NYC).

Confidentiality issues are threatened when an interpreter is used, as word spreads quickly in smaller minority communities. We do our best to use interpreters from outside the cultural community. We do extensive safety planning with all program participants, whether they are immigrants or not.

Another agency pointed out that the stigma surrounding going to shelter and safe houses may further hinder the immigrant victim's recourse to pursue safe alternatives:

The women we work with often will not leave family or community to seek safety in shelters. Shelters are perceived like "refugee camps" and by leaving the home a woman can be ostracized by her community.

As with all battered women, the danger to the victim can increase upon separation. When protection or restraining orders are issued to protect battered

immigrant women, this danger can be enhanced by cultural factors. When battered immigrants use the legal system for help, they can be overly challenged by their cultural community. This is due to the interplay of colliding cultures and perceptions that occur among the abuser, the abused, their ethnic community, and any outside intervention, as the following agencies related:

Fear of reprisal from abuser or his family, fear of death. Pride is often the most important issue to the abuser and public embarrassment is taken very seriously. Non-English speakers--calling for help in an emergency--the female calls 911 and the dispatcher can't understand. Outsiders are less likely to get involved. Abuser will take children. Extreme safety planning [needed]. Discuss with police re: history, restraining orders giving female custody, and supervised visitation if fleeing is a concern. Females fear that the abuser will take the children and leave the country.

Culture differences, family beliefs, etc. It means we must attack the beliefs in a different way, be creative.

Agencies were asked to comment on whether they ever had to divulge sensitive or confidential information to justice system agents. The overwhelming majority (76%) did not report such situations. Those providers who did turn over sensitive information usually only did so with the client's permission. Some providers stated information was only given with a signed release from the victim. One provider explained, "If a woman wants us to speak to an agency, we do so with a signed release. Otherwise, we never confirm or deny that we know/ work with any woman for safety reasons--this is agency policy." Some providers asked clients to sign release forms during the intake process stage, which allowed the agency to share information with other institutions and providers who were collaborating to help the victim. The survey solicited information from providers about the circumstances under which sensitive or confidential information

was requested from their agencies and how they addressed such requests. About one-half (47%) of the agencies reported that requests for sensitive information were rare. When information was requested, it often originated from justice system agencies and was often for information that was usually of official records. One provider noted the following:

We have had to give information regarding injunctions for protection and cases involving prosecution of an abuser. We cooperate as fully as possible within the parameters of confidentiality.

One respondent believed that they were legally required to turn over confidential information on a regular basis, having a “same pact between courts, probation and INS to fax info including convictions, arrests, etc.”² The other remaining agencies which divulged sensitive information to criminal justice agencies did so for criminal litigation purposes.

Respondents' Suggestions and Recommendations to Improve the System

Social Service Agencies

Social service providers were asked to address their organizational needs if given a “wish list and a large budget.” The most salient needs reported by almost one-half (45%) of the agencies were paid legal representation, pro bono attorneys, and attorneys on staff specializing in immigration issues. Attorneys with expertise in family law issues such as divorce and custody, as well as experience with criminal charges laid against battered immigrant women (dual arrest), were also mentioned. One quarter of the agencies related the need for culturally appropriate shelter--housing particularly tailored for the cultural and linguistic needs of immigrant women, along with increased monies for multi-cultural/multi-lingual staff and impartial, empathetic translators and interpreters. Transitional housing and longer-term residential facilities were described as

a critical adjunct to an immigrant woman's transition to independent living. Job and skills training, GED and college preparatory classes, and educational scholarships for immigrant women to pursue collegiate or vocational career paths were also cited as important necessities. Agencies stated that basic needs for children require improvement: adequate daycare, money for school supplies, clothes, beds, medical attention, and child advocacy.

Staff training was also regarded as essential for developing further expertise with specific language, cultural, and religious groups. Funds to recruit, and train staff members through classes, conferences increase staff retention and decreased burnout; intensive language training courses were also recognized as essential. Not surprisingly, along with staff training requests was the collateral need for across-the-board training on domestic violence issues (in general and particular to battered immigrant women) for law enforcement personnel, judges, and prosecutors. Money for operating costs, educational equipment and materials (such as translated documents and literature, non-English videos, and "language lines" which give victims access to pre-recorded domestic violence information over the phone) was cited as essential for improvement. Training programs for former clients in leadership development and enhanced advertising efforts on radio, television, and in newspapers to inform women about available services were also listed as beneficial methods to reach out to battered immigrant women in their communities.

Police and Law Enforcement Officers

Commonly mentioned recommendations for law enforcement personnel focused on changing perceptions about domestic violence and battered immigrant women through cultural sensitivity training, role-play, and continuing education classes. Providers

suggested that police officers examine their interactions with immigrant victims and reevaluate their roles in the field. Of particular concern was the tendency of police officers to minimize an immigrant woman's abuse (hence, minimizing protection) in light of presumed legal status issues. Some respondents addressed issues applicable to all abused women, such as, "educate officers about battered women's issues, especially in enforcing a protection order." Other respondents mentioned issues concerning victims' immigrant status:

Don't be on guard about citizenship status or documentation, your job is to protect and serve, not to deport.

Provide fair treatment to all victims regardless of immigration status.

Concomitant with the enforcement of protection orders is the difficulty of serving an order if the abuser cannot be found. Service providers suggested that police officers develop new strategies to deal with this problem. One respondent pointed out the difficulty as follows:

Temporary restraining orders--police need an address to secure man with order--for whatever reason, immigrant men tend to 'move around' and have no fixed address, therefore man never gets served so order is never in effect.

Social service providers repeatedly recommended interpreters in police stations and outlined basic guidelines to follow when language barriers are present:

Have interpreters available during all shifts so that immigrant women are able to communicate with someone immediately.

Training around sensitivity, don't allow abuser to be translator, [or have] access to translator.

Bilingual resource cards to enhance communication with victims and to provide appropriate referrals were proposed by one agency. "Adopt Iowa's pictorial model for on-

scene interviewing” was also suggested in situations when an interpreter may not be available. The use of multi-cultural female intermediaries was recommended to assist victims during domestic violence incidents. One provider specified the following::

Training and education. Domestic violence units in police stations to hire women of diverse background to work in department, have access to interpreters, do not use threat of deportation!

Prosecutors

Respondents suggested that prosecutors learn more about the dynamics underlying immigrant women’s reluctance to cooperate with the judicial process and that they clarify to the victim this process. According to the providers, prosecutors need to be cognizant of the many fears and tangible risks that may accompany criminal litigation: deportation, losing her children, potential ostracism from her family and community, having recourse to few financial resources or supports if she leaves her abuser. Some of the service providers reported as follows:

Educate [prosecutors] about the fear women have especially of the legal process. This will be helpful so they can frame their questions appropriately and not intimidate the women when and if they have to testify.

Train prosecutors regarding INS, train prosecutors to know that a female may not cooperate because her abuser may be deported³.

The respondents also commented that prosecutors need to carefully review any case of dual arrest and only proceed with the case against the primary aggressor. This would be a favorable change that would give victims a sense of fairness and equal opportunity for justice. Domestic violence training and education were viewed as mandatory steps towards initiating reform. Providers also recommended hiring

prosecutors from more diverse backgrounds, having certified interpreters available in court, and encouraging prosecutors to become more involved in immigrant issues.

Judges/Courts

Considerations for the judicial system enumerated by social service providers involved enhancing court sensitivity to battered immigrant women's issues, and as a part of these considerations, suggestions were made for improvements regarding victims' access to and understanding of the judicial process. Some respondents explained as follows:

Judges should not be the obstacles women face before they even get to the courtroom. They can facilitate due process rather than hinder it. The judges should restrain or at least be neutral in these cases. They can consider mitigating circumstances when exercising discretion within the confines of the law.

Lots of education for all agencies to understand where the client is coming from and what their safety needs are. Cultural differences may influence the level of (perceived) danger.

Recommendations included providing orders of protection and no contact orders in languages other than English having certified interpreters and victim/legal advocates on hand for all proceedings and appropriating a safe space in the courthouse for female victims of crime. Other significant suggestions from agencies listed shortening case processing time and streamlining cases for quicker resolutions.

Providers also expressed the need for mandatory yearly training and education classes for judges, clerks, and court officials about domestic violence and its repercussions on female immigrant populations.

Policy makers

Social service providers recommended a host of changes for policy makers.

Suggested immigration remedies included disconnecting the INS from all other government agencies, improving VAWA regulations to make self-petitioning easier, and providing more legal avenues for battered immigrant women to gain legal status. Among continuing barriers that preclude some immigrant victims in the process of attaining legal immigration status through various domestic violence related means (e.g. VAWA battered spouse waivers, crime victim visas) from accessing the full range of benefits, including: public housing, public benefits, better medical care, legal representation etc. Qualified immigrant victims need easy access to non-work security numbers, so that they can access all public benefits, while they await lawful permanent residency status. One service provider suggested:

Policy makers should exercise more compassion when making decisions that in the long run make immigrant women and their children a burden on the system. Policy makers need to design and implement the rules, regulations and funding appropriate with the goal of self-sufficiency, justice (for women), and punitive actions against the abuser so that the VAWA will have true meaning and effect.

Social service providers consistently discussed the need for increased funding for training, hiring, and new programming on all levels. Changes in asylum standards and immigration policy were regarded as necessary strategies to foster better safety, accessibility, and long-term success for battered immigration women:

Increase funding of social services and referrals, increase funding of training at all levels, increase awareness among judges, officers, prosecutors, staff, increase access for legal services for immigrant women.

Increase amnesty programs, recognize members of our community need services regardless of immigration status, including battered spouses, [change] traffic rules re: driver's licenses to allow better access to immigrants.

A change in immigration laws, find a law that protects women from their perpetrators without feeling scared of being deported.

Summary and Conclusion

The service providers who responded to the survey serve immigrant clients who originate from countries around the world with a substantial portion of the population coming from Central and South American countries. The battered immigrant women they help, by and large, share common socioeconomic characteristics. Beset by poverty and an average of a less than high school education, their prospects for self-sustaining employment and independence are difficult. Many have little or no English-speaking skills and are often dependent on their abuser for income. Battered immigrant clients can be easily intimidated by and suspicious of outsiders and believe they are powerless in a foreign country, which operates by laws they do not know or understand. They are often burdened with caring for children, and their main support networks--their families--may be far away and may not know about the abuse. Sometimes the only family that the battered immigrant woman has in the U.S. may be the abuser's family to whom she cannot turn for help. The immigrant women's ethnic communities may not be sympathetic or helpful. They may not condemn the abuse or approve of divorce. Immigrant women thus become trapped in abusive relationships and in violent homes, embarrassed to disclose the abuse to their families and community and fearful of reporting the violence to social service providers or justice system officials.

According to the service providers, non-reporting or underreporting of abusive incidents is widespread among non-immigrants in general and immigrant battered women in particular. For battered immigrant women, the problem's are exacerbated due to fear of law enforcement, fear of deportation, fear of community and family ostracism, and fear of being alone in an alien world, with no one to support them or sustain their basic needs. Also, the women have misperceptions about custody, thus making it difficult or even impossible to leave. They are hampered by stereotypes that negatively impact justice system agents' interaction with immigrant victims and reduce the likelihood that immigrant victims will turn to outsiders for help.

The responses of the social service agents suggest that they, and the victims they serve, are confronted with an entangled system of bureaucracy, general insensitivity, slow responses and unpredictability which make a battered immigrant woman's (and the representative agency's) recourse to justice fraught with uncertainty, misinformation, and various risks. The providers found their ability to deliver their services often contingent upon the knowledge of battered immigrants' legal rights and upon their ability to get other agencies both governmental and non-governmental, to offer equal access and fair treatment to immigrant victims. Advocating for immigrant victims is often complex and difficult even without the real and limiting fiscal constraints that plague most non-profit organizations.

The survey results show that in order to provide meaningful assistance to their immigrant clients, providers are called upon to become multidisciplinary experts and to offer services which go beyond their organizations' official mission, such as offering material goods, communication and translation resources, and legal assistance and

information. For this reason, there is a grave need for social service agencies to be able to access free technical assistance and training from organizations with expertise that can help them sort through the interrelated issues regarding immigrant victims--immigration, protection orders, family law, and public benefits issues. Providers also need access to technical experts who can dispel myths and misinformation and can provide strategy, advice, and training materials, which local groups can use to reform detrimental justice system practices that are not anchored in the law (e.g., police and court personnel asking about immigration status of victims and service providers being asked by justice system officials to turn over confidential information).

The respondents provided valuable insights into the circumstances that battered immigrant women face in order to escape abuse and into their particular needs in order to become survivors of domestic violence. The responses also shed light on the inadequacy of available services from social service networks and the barriers that victims/survivors face in accessing services. Of prominent concern is the complex interplay between the justice system and battered immigrant women, which makes attorneys' services the most needed service mentioned by the providers.

Respondents specifically offered recommendations for reforms needed in each sector of the criminal justice system. They recommended that criminal justice agents receive training and ongoing education about intimate and family violence and the way it directly relates to immigrant women nationwide and locally within their districts. They also suggested that law enforcement personnel, judges, and prosecutors receive continuing education about VAWA, other immigration options for battered immigrants, and the impact of criminal charges against the victim relate to her immigrant status. They

highlighted the importance of reaching out to immigrant populations, including recruiting immigrant women advocates, and the importance of discovering an effective mechanism for informing victims of their rights and available services. Service providers also pointed out the dangers that may arise from using an interpreter that is a relative, particularly a child, or from using interested community members in the case of battered immigrant women, and they recommended that justice officials receive specific training in interviewing techniques when working with immigrant populations. They particularly emphasized the importance of sensitivity to women, who may seem unwilling to cooperate with police and/or the justice system, even if it seems in her best interest to do so. There is also the need to make a concerted effort to communicate with the battered woman in her first language to receive an accurate account of abusive incidents.

The policy changes suggested by the providers include increases in funding across-the-board, with an emphasis upon interpretive resources, enhanced access to legal representation, and translation of official documents and educational literature into several languages. Particularly stressed was the need to separate the justice system from the INS--that receiving help from a police officer or bringing charges against an abuser must not jeopardize the immigration status of the victim or result in deporting (or threatening to deport) the undocumented women and their children. Correspondingly, providers also emphasized the need for mainstream service providers to learn that all battered women, including undocumented battered immigrant women, have equal access to social services aimed at helping battered women and crime victims. Social service providers strongly recommended the separation of the provision of welfare services from immigration status. Many suggested that social security numbers be eliminated from the

application/eligibility process. While there are legal limitations on when and of whom state agencies can ask for social security numbers (only of applicants for TANF, SSI and food stamps), few benefits workers are aware of these restrictions and request social security numbers for all benefits programs. Requests for social security numbers of persons not applying for benefits for themselves are also contrary to federal law, as in the case of a battered immigrant woman applying for food stamps not for herself but for her citizen child.

An important message emerging from the providers' responses pertained to the critical role of an integrated community response to the plight of battered immigrant women. The degree to which collaborative efforts are established between government and non-government agencies to address the multi-faceted needs of immigrant women (including employment, childcare, medical aid, housing and immigration-related relief) in a culturally sensitive manner will largely determine the success in mitigating violence towards immigrant women. These efforts must include fiduciary and programmatic commitments from the justice system sector for resources. Of particular importance is devoting resources to interpreters, multilingual staff, domestic violence education and training, the involvement of the community at large in the support of grassroots initiatives, and general education concerning domestic violence and its effects on the local immigrant population.

¹ This approach could violate HUD directives issued in January 2001 that require access to transitional housing for up to two years for all battered immigrants without regard to immigration status. Some undocumented immigrants do work, and the proper approach to work requirements would be for the agency to focus on whether the battered immigrant is in fact working instead of proof of legal work authorization.

² This belief is legally incorrect and could jeopardize funding for the domestic violence agency turning over confidential information. It provides an illustration of the kinds of misinformation even well meaning service providers have and highlights the need for easy access for service providers to technical expertise on battered immigrant issues and legal rights.

³ The abuser's deportation may or may not have adverse effects on the victim, depending on her particular circumstances. VAWA 2000 removed much of the harm that his loss of status can have on the victim's immigration case, but many victims, advocates and prosecutors are not aware of these changes in the law. Fears about effect of deportation of the abuser on the victim may be safety-planning issues. Some women's safety will be jeopardized by deportation; others' safety will be enhanced. Other deportation issues that may be of concern to some women, as mentioned in the previous chapter, relate to the abuser's role as a parent or the effect of his removal on the children.

Chapter 5: The Perspectives of Attorneys and Legal Rights Advocates

Sample Selection & Methodology

The perspectives of the attorneys and legal rights advocates were solicited through a written questionnaire. The respondents included 26 immigration lawyers, family law attorneys, and providers of legal services who were recruited in two ways. Fourteen respondents participated in the annual meeting of the National Network on Behalf of Battered Immigrant Women (hereafter “Network”) where they were approached by the conference organizers to fill out the survey. The meeting of the Network included, among other activities, training sessions in various aspects of law relevant to battered immigrant women as well as cultural/social issues affecting work with immigrant victims. The meeting was designed for attorneys, legal advocates, and social service providers who encounter battered immigrant women in their work and who are interested in expanding their understanding of issues related to serving this population. Another twelve attorneys, identified by the Immigrant Women Program of NOW Legal Defense and Education Fund (IWP) as working in the area of immigrant women, responded to an e-mail request from the IWP to participate in the study.

Result

Description of Respondents' Work Mission, Settings and Activities

The overwhelming majority of the responding lawyers (n=24) worked in various organizations or programs, and only two attorneys worked in private practice. The organizations for which the majority of the responding attorneys worked provided legal services to immigrant or low-income populations. The respondents served as either project directors, directors of legal services, managing or supervising attorneys, and staff attorneys. They were located in 14 states and worked in large, mid-size, and small cities in different parts of the country on the East and West coasts, as well as in the Southern, Northern, and Midwestern regions of the U.S.¹

The organizations for which the respondents worked were independent non-profit or denominational, and most of their funding came from public sources, such as federal grants (including VAWA), state or city budgetary allocation, and private funds or donations, such as United Way or church related contributions. They also received, in some cases, nominal fees from clients. Several of the organizations were funded in part through grassroots and foundation fund-raising activities.

The attorneys reported that their organizations have been handling domestic violence cases as part of their workload between 10 and 25 years ($x=10$ years), and about one-third of the organizations handle exclusively domestic violence cases. The remainder stated that 5% to 75% of their cases contained domestic violence issues, and in those cases, women were most often the clients (on average 90% of the cases for women clients, the remainder were mostly cases for children). However, the overwhelming majority (80%) of the respondents stated that they began to work with immigrant women only around 3 to 4 years ago. Most of them listed the establishment of the Violence Against Women Act (1994) as the landmark for commencing their work with immigrants or mentioned the grants associated with this legislation as facilitating their operations.

The organizations providing legal services varied in size, from relatively small (altogether four staff, support, and administrative workers) to very large (up to 70 employees), and in some cases, they had satellite offices throughout the state in which they were located. Many of the respondents stated that their offices rely heavily on volunteers to help with the workload. Most of the large organizations had a Board of Directors charged with their operation, and for the smaller offices, the director or manager ran the operation with input from other staff, and their boards were less involved. Attorneys or managers ran a few of the offices, and some were run by all of the members of the organization.

The mission of the offices was wide ranging but most commonly included provision of quality legal services, advocacy, and technical assistance to immigrant and indigent populations in various areas of the law: civil, criminal and public law, and community outreach and education. Priorities included family law, domestic violence and child custody, housing and landlord issues, medical care, public benefits, consumer law, and labor law. They also mentioned issues of bankruptcy, human rights, immigrant rights, and emerging community issues. They were also engaged in advocacy for improvements in service delivery and laws affecting the poor. The respondents operated via contacts with various administrative agencies, case advocacy, legal representation, or through community education and awareness campaigns. Their staff is usually comprised of individuals who are committed.

The attorneys described their work mission as providing free or nominal fee immigration services, advice, referrals, and representation to low-income persons, non-citizens or limited English-speaking populations and their families. They also saw their mission dedicated to educating disadvantaged clients about their legal rights and options. Several respondents mentioned VAWA-related assistance (legal representation and outreach), and one listed a specific ethnic communities program (e.g., Afghan female refugee project). One respondent described the core of the program she was working for as bringing justice to the lives of immigrant and refugee women, which included representing women fleeing from international gender-based human rights abuses, or assisting those seeking gender-based asylum. Another attorney stated that they “help immigrant women with their individual struggle, while providing a vehicle for them to become involved in the larger struggle on behalf of other women.” In sum, the majority of the attorneys worked for offices or programs dealing with immigration concerns and poverty-related issues, concerns that often overlap in many of the cases they handle. Only two respondents related that they worked for offices that had

exclusively women's issues as their focus or that their mandate was to serve only women.

The attorneys listed the following specific activities performed as part of their routine work: assisting immigrants in filling out INS forms; providing legal services to immigrants who are LPR's, refugees, or asylees; helping the spouse or children of LPR's or U.S. citizens who have pending requests for status adjustments; pro bono representation of cases in front of INS officials or courts; deportation/removal defense; advising clients on their rights and opportunities; naturalization and derivative citizenship; and immigration representation on VAWA self-petitions. Attorneys specifically mentioned services to underserved immigrant populations relative to domestic violence issues, restraining orders, divorce and child custody, child support, and other actions associated with leaving a violent relationship and/or marriage. They listed non-criminal and non-employment based types of immigration-related legal services, including cancellation, family based adjustment and petitions, consular processing, renewal and asylum-related requests. They also facilitated monthly legal aid night services at local community centers which offered free immigration consultation, as well as advice on medical services, public benefits, divorce-related services, protection orders, labor law, housing, landlord/tenant issues, and referral of clients to pro-bono attorneys. Lastly, they were involved in humanitarian cases, community education on immigration, referral to other agencies for public benefits, and housing concerns.

Technical assistance pertaining to criminal and family law issues for battered immigrant women was given, as well as crisis intervention services to assist victims' escape or prevent future violence from occurring by a spouse or a parent. Counseling and advice were dispensed for a variety of concerns: from law to benefits. Other concerns included obtaining basic services, such as procurement of food, shelter, health care, and general "navigation of the bureaucracy and knowing what to expect in the

process.” These were constant themes of working with abused immigrant women. From the responses of some of the programs to this question, it is clear that some practices of the responding organizations are legal services corporation (LSC) funded. These federally funded programs are restricted in whom they can represent with both LSC and non-LSC dollars. Most can only represent battered immigrant women without regard to immigration status if their abuser is or was their spouse or parent.

Features of Attorneys' Work with Immigrants: Clients and their Needs

In responding to a question about the percentages of women, men, couples, children, and families that their offices served, the attorneys stated that women make up the largest percentage of their clientele. Excluding the four programs or offices which served exclusively women, and another office that provided technical assistance to other attorneys and service providers, the percentage of female clients which the remainder of offices served ranged from 15% to 80%, with a mean of 60% women clients. These percentages were followed by families (ranging between 20% and 100%, $X=40\%$), with women and children as the predominant clientele, and couples (ranging between 10% and 45% with a mean of 25%). The range of percentages of organizations or offices that served only men was 1% to 30%, with a mean percentage of around 5%. In other words, the attorneys reported that the most common group that they assist in their routine work concerning immigration issues was comprised of women, whether on their own, as mothers, or in families (couples only or couples with children). On the average, only 5% of the attorneys' immigration cases are matters in which men only are the clients.

More light was shed on the kinds of clients the attorneys typically served when the respondents answered a question about whether the services they offered differed between the various categories of clients they had. Most of the attorneys who provided immigration services or assistance to the general immigrant population responded with the following typical comment:

Yes, we offer the same categories of service to men, women and children, however, the need for and demand for these services is overwhelmingly on the part of the women. We are not equipped to service them equally.

Another attorney answered by expressing the problem as follows:

Yes, ...but most women and child cases require lengthy in depth referrals to social services programs. We are equipped to service them equally, however, women and children cases are less likely to be able to pay our nominal fees so must take majority of cases pro bono, can't take all cases.

One attorney commented in this way:

We are not equipped to service them equally. Need more time and hours to devote to battered immigrants' services including outreach.

An attorney who is equally equipped to serve all groups--men, women, and children--added the following point when responding to the question of whether their services differ when the client is a man, woman, or child:

Yes, differ in that most of the women I see are battered spouses and the juveniles/children are unaccompanied minors. The men and families are usually interested in family-based petitions. I am equipped to service them equally. As the attorney on staff, I am responsible for providing full services to those individuals I am able to help... At times, I am not equipped to service my clients or those seeking services because I am overwhelmed by the volume of clients/people needing our services.

In this context, one attorney described on the effects that the tyranny of numbers has on the services provided to immigrant clients, most of them women:

We are so overwhelmed with people/cases that we often feel our work is getting diluted in terms of substance and sensitivity, and we are just turning into an intake/assessment advice agency. The realities of seeing about 1000 people a year with 3 person staff. You should talk to the paralegal and secretary/receptionist.

Collaborations and Need for Interagency Cooperation

Another feature characteristic of attorneys' work with immigration issues is the extent and amount of collaboration they have with other agencies and organizations. In response to a question whether their work is a collaborative effort and if it is, with whom do they collaborate, the attorneys provided a long list of agencies or organizations. This

list of collaborators not only included legal institutions such as law enforcement, courts, and corrections but also a variety of other organizations. These organization's consisted of educational institutions, medical providers, city and state governments, welfare departments and organizations, various coalitions, advocacy organizations for children, juveniles and women, immigrant and ethnic organizations, immigrant rights or legal services organizations, fundraising agencies, women, children and elderly abuse organizations, various victim organizations, batterer programs, religious organizations or institutions, shelters, other non-profit service providers, and social services, humanitarian aid or human rights organizations. Several respondents mentioned collaboration with the media. The attorneys described the collaborations as a necessary and integral part of their work. Many stated that their work could not be effective or even possible without pulling together various resources these organizations or agencies can offer.

When asked about the way in which their collaboration with other agencies began, the attorneys often recounted that specific cases or issues triggered the collaboration. Others related that their collaborations were initiated by referrals or the publication of statistics about various problems or cases that reached the news. One attorney described her collaborating history as follows:

I began collaborating with the National Lawyers Guild Immigration Project in 1987, particularly to solve individual case problems, and to change the law for increased social justice. In Seattle WA, 1995-- sensitivity to immigrant women's plight was triggered by the tragedy of mail order bride Suzanna Blackwell who was murdered with her 2 friends by the estranged husband in the King County Courthouse. State Representative Velma Veloria and the Filipino Community of Seattle have championed the public education and immigrants' assistance in this area. I have a current case of economic abuse of a Filipina woman brought to me by a Seattle police officer outraged at his friend's scheme for a maid. I have heard of 4-5 more female maid/slave immigrant cases from around the country in the past couple years.

Some attorneys stated that they started looking for new opportunities and avenues when they had exhausted their own resources. This active search for collaboration applied particularly to work with undocumented immigrants. Only two attorneys responded that other organizations initiated the collaboration with them. Some reported that because "they are the only game in town" in terms of the population they serve or what they do, various organizations have approached them to collaborate and provide assistance to immigrants or indigent clients. Others related that becoming aware of specific problems of their clientele, such as repeated failure of immigrant women to receive benefits or that their clients endured complex immigration-related problems, prompted collaboration with other agencies, organizations and professionals. Attempts to coordinate efforts, minimize duplication, and maximize returns were also motivating factors for collaborative efforts. One attorney explained as follows:

Our staff includes outreach personnel and two coordinators. One of the jobs of the coordinators is to establish new community collaborations and to maintain existing ones. We have been collaborating with most of the agencies since the beginning of our program. Initiating the collaboration is done through understanding other organization services and trying to have one comprehensive list of supportive services referrals.

Some respondents highlighted the importance of collaborations for successful grant applications or for receiving technical assistance and case representation. One attorney elaborated in this manner:

With local battered women programs, collaboration was upon grant application, and we work closely with the three organizations. With statewide programs, we sought technical assistance on a variety of issues related to work, training, and networking. With Immigrant Initiative, contact was made with respect to obtaining technical assistance upon accepting a case for representation.

The attorneys stated that the communities they serve view collaboration very favorably. By and large, the respondents commented that all parties involved were

highly appreciative of collaborative efforts in this area of work. Grantors favor collaboration and reward it; clients, particularly survivors of domestic violence, appreciate the value of coordinated services among providers because “there is less bureaucracy to navigate,” and for those who work on immigration issues, collaboration is “critically important for information and services on immigration issues.” The communities in which they lived, the attorneys stated, also view the collaboration as “critical and successful,” “very positively,” “great,” “excellent according to surveys,” and “are glad about them but wish we had more funding.”

The only aspect of their work which received some critical appraisal by the community, and which will be elaborated on in the next section, was the issue of prosecuting batterers:

...issues of how prosecution serves domestic violence victims, or disserves them are ongoing discussion, especially with respect to immigrant communities.

When assessing collaborative efforts with the criminal justice system in particular, the immigration attorneys' responses were mixed. About two-fifths of attorneys whose organizations did immigration work did not collaborate with the criminal justice system. Some immigration legal providers stated, “No, very little; hope to increase collaboration,” “No, most TPOs (temporary protection orders) are done by shelter advocates,” “No, on occasion I have spoken with or worked with the victim advocates of the police departments.”

On the other hand, those that engaged in collaboration with criminal justice agents generally cooperated with one another on any number of fronts and evaluated such efforts positively. These included referrals, police and prosecutor training on immigration issues, police reports, orders of protection, assisting with the collection of evidence, and educating their clients to cooperate with court-ordered counseling,

probation settlements, and so on. One respondent described the following cooperative efforts:

Yes, frequent referral from law enforcement and affiliated victim services (municipal police and sheriff's department), some cooperation with County Attorneys office on prosecution of cases, frequent cooperation with Victim's services (transportation, emergency housing), generally good cooperation from law enforcement as witnesses in most cases that go to court, generally orders of protection, necessary to subpoena officers but usually cooperative, helpful if procedures followed- insufficient for us to do this very often.

Attorneys' Work with Battered Immigrant Women and their Abusers

The attorneys were asked to describe their work with battered immigrant women. They related typical legal activities or services offered to battered women who are immigrants, but they also mentioned a variety of activities that are not typical for offices established to provide legal services. One attorney reported the following:

I encounter everything imaginable from fleeing the abuser to finding food, shelter and clothing, to divorce, filing an injunction for protection, to possible deportation.

The attorneys stated that they had to deal with a myriad of problems and legal issues related to their clients' experience with battering, most of which included issues pertaining to the immigration status of either victim or perpetrator. Typical responses were the following:

... I encounter all related issues: divorce, custody, child support, alimony, welfare, defenses and legalizing status, deportation on the grounds of fraudulent marriage...

....related issues include: custody, visitation, orders of protection, child protection, criminal, immigration, employment, matrimonial, paternity, wills & estate, name change.

Immigration defense, self-petition for abused married immigrant, deportation defense for criminally convicted domestic abusers are some of the immigration-related issues we encounter.

Some of the attorneys elaborated on the intricate problems that their battered clients face, which in turn put special demands on the attorneys who try to extricate immigrant battered women from domestic violence:

Clients' fear of deportation or the batterer's deportation prevents them from calling police, particularly when the client has no immigration relief available and is illegal and the batterer is a citizen or resident. When clients do call the police do not respond appropriately, i.e. don't provide an interpreter, often don't make arrests when appropriate. (Should be rectified by police training by service providers, which is currently being done in D.C.) Related child abuse cases, i.e. when batterer is also abusing kids and neglect case is brought by government against both parents.

Within our agency past or present intimate partnerships or relationships in which the woman has suffered any abuse including but not limited to physical, mental, emotional, harassment, control, economic, threats, using of children, and intimidation are constituted as domestic violence. Our immigrant population generally has additional barriers such as language, unfamiliarity with the law, unfamiliarity with their civil rights, unfamiliarity with their immigration rights. They are often subject to many threats from the abuser claiming that he will take the children, or that the police will take her, or he will report her to INS. One of the most fundamental barriers [for] our immigrant women is the role of their culture and families, which further complicates their issues. Many of these women come from beliefs that divorce is unheard of and sinful. They believe that enduring the abuse is their responsibility as a part of keeping the family together. Extended family members such as in-laws, parents, aunts, and uncles also condone the abusive behavior and in certain ways force the woman to stay. If she was to leave the situation, she would not just be leaving her batterer, she would be leaving her culture, her family, and her life, as she has known it.

The activities the attorneys described revolved around legal advice and representation of low-income battered women and children in their immigration matters. They included determination of immigration status, family law issues such as child custody and support, divorce annulment, protection orders, VAWA self-petitions and adjustment of status, deportation, cancellation of removal, asylum-related requests, and housing issues including eviction. The attorneys working with battered immigrants were also called upon to provide a variety of other types of assistance related to the safety or welfare of these clients. The list included the following: advice on access to

medical, psychological and social services; public benefits for battered immigrants (TANF, housing, education, food stamps, Medicaid, etc.); general information on careers and life in the U.S.; referrals to domestic violence shelters and the preparation of safety plans. The list also set forth advice on what to do if stopped or arrested by Border Patrol and options pertaining to securing immigration status and related issues such as receiving information on the impact of divorce on immigration status or immigration-related effects of battering.

In addition to strictly legal issues the attorneys handled, respondents also reported various ancillary forms of assistance. These activities consisted of the following: resolving logistical problems of transportation, resources, language skills, as well as providing advice on culturally sensitive services, emotional health, or keeping documents in a safe place. They gave explanations about the justice system to their clients and discussed the various options the women have relative to their family situation, immigration status, and the justice system.

In response to a question concerning the contact the attorneys had with batterers, the respondents stated that they had limited contact with men who perpetrated domestic violence. Most commonly the contact they had with these men occurred because the abusers were "trying to get to the victims through the office... trying to get their documents or sabotage their cases." Additional reasons for contact with men who battered immigrant women included the following: conflict of interest cases, where both spouses were represented and the perpetrator and victim came to the office as joint applicants; occasional requests by the victim for INS detention representation for the perpetrator; or when the perpetrator was needed to assist with the deportation defense of the victim. Other occasions in which they were in contact with perpetrators consisted of collecting child support, or participating as opposing counsel in protection order cases.

The attorneys also mentioned that police departments contact their office for advice to give to perpetrators on immigration consequences regarding guilty pleas, and

in some cases the attorneys counseled defense attorneys about the impact of possible case resolutions on the immigration status of the perpetrator. The attorneys stated that they advised immigrant victims whether or not they can safely cooperate in their abuser's prosecution and that they encounter batterers when some victims are charged with domestic violence in criminal court.

Some attorneys noted that although they do not represent batterers, they do come in contact with male immigrants when they provide relevant information about domestic violence laws to new immigrants who settle in the community, as the following response suggested:

We do present information to new arrivals at community meetings to explain to men what is acceptable and legal in the U.S. and to women what rights they have here.

Typical and Unusual Cases the Attorneys Handled

The attorneys were asked to describe the typical cases that they encountered in their work with immigrant women. The most common scenarios described were "immigrant women living with or married to lawful permanent residents (LPR) or U.S. citizens who are refusing to petition for the women's rights", or "women with children in abusive marriages or relationships, who seek divorce, child custody, childcare, and/or permanent resident immigration status." Most of the attorneys related the same kind of scenarios in cases in which the abuser, the abused or both are undocumented: "Batterer is undocumented or lawful permanent resident (LPR), victim is undocumented or U.S. citizen, children are usually U.S. citizens." Some of the attorneys who mentioned typical cases of documented immigrant victims often commented that the marriages of the U.S. citizens or lawful permanent residents are very recent or only common law marriages. Common examples that they provided for such cases were the following:

The so called 'mail order bride' marriages--a U.S. citizen man goes to Eastern Europe and courts a woman and they get married [in] two weeks and within a few weeks of arrival in the U.S., there is abuse.

U.S. citizen husband met wife in U.S. while she is on vacation. They fall in love after a short courtship, marry and she either returns to her country and he entices her back or she stays and then shortly after they begin living together, the abuse starts and escalates and the cycle of violence begins.

Another example of a typical case underscored the role of the abuser and his family:

Woman from Asian country marries a U.S. citizen/lawful permanent resident. She is usually recent/new immigrant. She doesn't have legal status yet and she suffers from abuse of husband. She requests help with domestic violence and status. Also typical is fact that abuse is not only by husband but also his family/parents.

Some immigration attorneys elaborated on the ingredients of some typical cases, which despite the lengthy period of abuse there is little hard evidence to prove the abuse:

Overall, few involve direct abuse of children, abuse has lasted for years, no medical evidence, no witnesses (except kids) and very few with police/court records to document abuse.

Common circumstances of immigrant battered women that came to the attention of the attorneys were the following:

Victims of domestic violence, who lack immigration status, have fear of reporting, fear of deportation, undocumented victims and spouses.

Immigrant women married to U.S. citizen or lawful permanent resident.

Victims of domestic violence-lack of immigration status fear of reporting, fear of deportation, undocumented victims and spouses.

Man brings wife to U.S., controls woman by not legalizing her status, and abuse escalates.

Related common issues confronted by the attorneys in their work with immigrant women included the barriers battered immigrant women encounter in their attempt to escape or resist the abuse. For instance, one respondent detailed the following:

We typically deal with the large immigrant Armenia and Latina populations within our area. Almost all of the clients we see have suffered physical abuse as well as other types of abuse. Their main concern is the pain, shame and humiliation they are going to cause their children, families, and cultures by standing up and saying that this should not be happening. Language and lack of knowledge of the law also leaves many of these women vulnerable to empty threats made by their batterers.

The atypical cases the attorneys could recall involved same sex domestic violence cases, immigrant male victims in abusive relationships, or an abused woman who either failed to protect her own children or abused them herself. Some respondents reported rare case in which there was a seriously contested custody dispute (women in these cases usually give up the fight), but they stated that in other areas of the region this type of case was more common.

The Difficult Aspects of Working with Immigrant Battered Women

The attorneys were asked to discuss the difficulties they encounter in addressing domestic violence in the immigrant community. Their responses echoed the problems encountered in addressing domestic violence in the non-immigrant population, with additional, more intricate and complex difficulties unique to immigrant women. General problems associated with handling domestic violence cases included fear of the justice system, fear for one's safety, reluctance of victims to pursue cases even when there was serious concern about their safety, or lack of cooperation (with police or prosecution) on the part of the client because of her perception that her situation was inescapable. They also mentioned issues dealing with childcare, healthcare, employment, and housing.

Difficulties that are unique to working with immigrant women commonly involve battered immigrant women who are not eligible for any kind of relief, including the attorneys' legal services, because the law office is subject to legal service corporation restriction and because the abuser is not a spouse or parent. The attorneys often listed situations such as lack of relief for immigrant women married to or living with undocumented men, victims ineligible for immigration status through VAWA because the abuser is not a spouse or she cannot prove legal marriage, or the more recent

emerging category of ineligible victims who are temporary worker spouses, “the H-4 problem”, as one attorney explained in this way: “Many wives of these temporary workers in Silicon Valley (mostly wives of engineers from South Asian countries and China) have no recourse with regards to status and try to endure abuse till the husband gets LPR status.”²

The attorneys set forth other problems common among immigrant women such as extreme poverty due to lack of legal work authorization/inability to get decent-paying work and various immigration-related risks in disclosing the abuse. Additionally, they cited problems such as difficulties in speaking frankly about the abuse itself (due to cultural inhibition as well as attorneys’ lack of training in domestic violence counseling), lack of willingness or ability to fully explain details of the history of abuse (due to either cultural or language barriers), finding the necessary documentation to support a case, keeping track of who knows what in the maze of legal problems, difficulties in communication with victims or in helping victims tell their stories coherently when they present them to INS or justice system officials.

The attorneys reported logistical difficulties in obtaining services, especially psychological counseling and/or evaluation in languages other than English, in the need to travel distances to serve clients, and in inadequate funding for this labor intensive work. Other related difficulties included evidentiary issues such as 911 tapes recording police who do not speak the victim’s language, subsequent incident reports that may be weak or inaccurate, police using children as interpreters in investigations, or battered women who need help filing or answering various petitions that may critically affect their legal status, such as a dissolution of marriage, custody or other family issues.

In trying to help guide some women to self-sufficiency and empowerment, there are many barriers that compound domestic violence such as language, lack of funds, lack of work experience, and lack of knowledge of the law. One of the most difficult is when an immigrant woman leaves the batterer and is then abused by her own family.

Lack of access to the social safety net was also a problem identified by the respondents.

Some attorneys explained as follows:

Extreme poverty, lack of transportation, lack of phones, frequent changes of address, and difficulty for some of the abused women in being open about their experiences.

Lack of availability of welfare and other public benefits, language barriers--within our organization, court system, mental health system, etc., lack of cultural diversity, lack of support services in community for battered immigrant women, lack of public transportation, systemic racism and xenophobia.

Unusual language groups, translator problems; insufficient shelter space; funds.

Some legal service providers cited restrictions on providing their services to immigrant women, due to ethical or conflict of interest issues or due to restrictions applicable to funded legal services programs, such as a legal services corporation. One respondent described the following:

If there is a conflict of interest because we have helped or represented both wife and abuser. Due to ethical reasons as an attorney, I have to decline service. Also if the women do not have sufficient evidence or if the husband/abuser is not a U.S. citizen or permanent resident, I cannot assist them other than referring them to other service providers such as mental health counselors. In responding to a question about what makes their work with battered immigrant women particularly difficult, a common theme emerging from the attorneys' responses was the combination of the victims' sensitive situation and their omnipresent fear of both the abuser and the legal system. Another theme was the combination of barriers that needed to be overcome in addressing the victimization of immigrant women: poverty and economic hardship, language and cultural barriers, and legal concerns. These

factors in concert, some stated, made the woman's return to the abuser an understandable solution. The attorneys provided some concrete examples of the challenges in attempting to help battered immigrants:

Fear of deportation, fear of losing custody of children or being deported away from children, fear that the abuser will kidnap children across the border to Mexico or leave client in Mexico and take children back to U.S., fear that calling police will lead to arrest/deportation of abuser and/or victim, fear that obtaining an order of protection will trigger abuser to file for divorce or take revenge by calling INS.

Another response provided these details:

Language barriers, clients are afraid to reveal details, clients fear reporting to INS. We counsel, use translators, spend extra time working with clients on statements, and we work closely with domestic violence counselors.

Some lawyers discussed multiple interrelated problems encountered by battered immigrant women, which make the work of immigration lawyers particularly difficult:

Lack of free legal services for family law issues in my region. The women don't qualify for legal services/legal aid because of their immigration status or husband's income. As an immigration attorney with little or no family law background, it makes it hard for me to give info or advice on divorce matters.

When asked how they address these difficult situations, the lawyers offered the following responses: "We try to be compassionate and supportive," "Through education, patience, and allegiances," "through collaborative effort," or, as one attorney explained:

...through numerous opportunities to discuss case in slow/gradual discussion of facts and seek out mental health professionals to assist, avoid quick response/judgments, ask them to leave case open, seek assistance of caseworker to ensure safety.

Another attorney, in reference to undocumented women, described this problem:

They are difficult because there are many things advocates and attorneys can do to help battered immigrants who are undocumented,

but women don't get this help if advocates get stopped in their tracks over the immigration issues.

One attorney, who lamented the large number of women who cannot be helped by her office, added that "... We keep their contact info hoping for new legislation."³

In response to a question about any special activities or procedures they follow when working against domestic violence among immigrants, their responses reflected the precariousness of and sensitivity to the victims' legal situation. These concerns also spill over to attorneys and force them to creatively overcome some of the possible dangers inherently involved in planning strategic measures for their client's safety.

Typical responses were the following:

Be sure to verify immigration status before giving advice, clarify that we are not connected with the government, emphasize confidentiality, give clear advice about encounters with Border Patrol and concerning leaving the U.S. (don't leave!), give careful advice about consequences of divorce, getting orders of protection and child custody and family law, always give sensitive info in client's native language. Address immigration questions first so women feel comfortable seeking services. Then address safety issues once women know they can seek help without being deported... Understand that various legal issues are interrelated.

Safety planning, advising on safety of documents, keeping journals, gathering evidence, when men call the office, being careful what info we give out, we just got a P.O. Box.

In-depth consultations, referrals if necessary, discussion of immigration possibilities. Extensive interviews, close collaboration with agencies.

Pair them with a volunteer to be special mentor. Assess immigration rights, possible eligibility to enhance safety. Tell about VAWA, stress confidentiality. Always include it as part of community education, but advise further on one on one...explain confidentiality, options, law regulations, inquire regarding manner of future communication...

We must offer safety planning, protection orders, and immigration assistance to battered immigrant women who choose to remain with their abusers. Train advocates and attorneys to offer services to all immigrant women without regard to whether or not she will leave her abuser.

Children-custody issues etc. Physical safety, being followed, abuser finding out that woman went to an attorney, finding business card from the center, gathering evidence safely so that abuser doesn't find out.

The delicate and intricate situation of battered immigrant women requires that work with them be compartmentalized. The lawyers are always on guard with regard to whom they contact, what is said to each individual, how information is gathered and kept, and what form of communication they maintain with their clients. They also convey this type of thinking model to their clients and educate them about relevant cautionary measures. For instance, some attorneys recommended the following approaches:

Avoid involvement of family law attorney and/or knowledge by perpetrator of ongoing immigration applications.

The Project is careful to ask the abused immigrant women whether phone calls to or from the Project would endanger her with her spouse or with her abuser. The Project addresses concerns of safety voiced by immigrant women in response to our questions by being extremely circumspect when attempting to contact women in unsafe situations.

Immigration Law, the Justice System and Battered Immigrant Women

Throughout their responses, immigration attorneys raised their concerns about the limits of the law, the contradictory and intractable consequences victims may face if legal action is taken and then backfires on the victims, duly frustrating legal providers' efforts to keep abused immigrant victims safe and functioning independently in this country:

Our clients often face very negative consequences for having a legal record which is beyond anything we can do. This is frustrating and makes us feel helpless. One client will face deportation if she is convicted of murder and her defense attorney is not very organized or prepared.

Lack of understanding about battered immigrants' legal rights. Advocates who cannot help women if they cannot address immigration status issues.

Law and INS as well as intractable cultural differences.

Fear of deportation, inability to work/make a living because of immigration status, language barriers, cultural constraints.

Immigration lawyers' concerns about the double jeopardy of battered immigrant women--fear of the batterer and of the justice system/immigration authorities--are quite apparent from the way in which legal providers orchestrate their decisions or actions. Secrecy and covert work are usually the normative behaviors for both attorney and client, which eventually take their toll on the client and affect the attorney's work as well. For instance, in order to complete a VAWA self-petition, the laws are structured to compel the battered immigrant woman to either stay with her abuser and wait out the documentation process, or rely on already strained shelter resources for an indefinite period of time. Battered immigrant women usually have few financial resources of their own. Meanwhile, collecting evidentiary material necessary for the self-petition increases her risk of exposure to the abuser and/or her community, making her vulnerable to renewed acts of violence. One of the attorneys described the challenges:

It is usually very [upsetting] for them to continue to live with their abuser, but they often don't have family or friends they can stay with. The shelter is pretty good about letting these women stay there as long as they need to in order to get through the self-petition process, but this isn't always feasible for every woman. She also fears her partner will find out she has sought outside help. For this reason, the process of collecting evidence for the self-petition can be very dangerous. We usually can't call them at home and have to wait for them to contact us. She also needs to be careful she is not seen meeting with a legal services attorney for fear that someone will tell her husband.

Some immigration attorneys contended that battered immigrant women are at an unfair disadvantage when they feel unable to exercise their right to bring criminal charges against an abuser when he is not a citizen. One attorney explained as follows: "Women are afraid of immigration consequences; they remain in violent relationships risking their lives and lives of their children." One domestic violence conviction could

lead to deportation of the abuser. Immigration attorneys thought that deportation could narrow an immigrant woman's options that the attorneys feel an immigrant victim has, such as changing his behavior, salvaging the relationship, or receiving child support or alimony payments if she chooses divorce. An attorney described the immigrant women's concerns:

A lawful permanent resident (usually the husband) can be deported forever if he gets one domestic violence conviction. Oftentimes the wife wants him to stop the violence but does not want him to be deported. She wants him to change his behavior, but not banish him from the U.S. This is a real problem. If she reports him to the police, she may end up seeing her husband deported even though it was not her intention.

Another attorney related possible adverse effects of calling the police:

...fear that calling the police will lead to arrest/deportation of abuser and/or victim, fear that obtaining an order of protection will trigger abuser to file for divorce or take revenge by calling INS.

If a battered immigrant woman is unable to obtain legal work authorization or is undocumented, sustainable employment, affordable childcare, and stable housing become difficult to secure. One attorney reported, "[with a] lack of viable means to support herself and her children, and no option for adjusting her status, [we] essentially forced one of our clients to return to her batterer." Undocumented women face serious problems seeking shelter and housing which, a respondent stated, "cause them to remain in unsafe relationships or to make unsafe arrangements."

According to the attorneys, the linkages and tacit relationships between law enforcement and the INS that exist in some communities jeopardize the safety of the victim. They undermine the relationship between the victim and the attorney by multiplying the number of hostile relationships which confront the victim in a U.S. society that is unfamiliar to her. When battered immigrants call the police and the police voluntarily link themselves to the INS, battered immigrants risk deportation and losing their children through child protective services or divorce. A failure to report

domestic violence incidents decreases a victim's ability to provide a reliable record of the abuse if she decides to prosecute or later needs immigration relief. When protection orders are not honored by law enforcement personnel, this experience adds a further degree of powerlessness for the victim attempting to escape, as well as the legal provider endeavoring to secure a measure of safety for the victim while her case is in progress.

Some attorneys insisted on the following:

An undocumented woman risks deportation with criminal charges and often can't prove her domestic violence history because she was too scared to call the police. One Jamaican client was turned away from shelter days before she stabbed her abuser in self-defense. If she had gotten into shelter, she never would have had to defend herself. Domestic violence services must not turn away clients because of status. Women need outreach and info everywhere reinforcing that they can call the police and get help without being deported.

Police ties to INS reporting is problematic. I don't believe that local police should report "suspicious" persons to INS.

Yes. Immediate referral (required by statute if necessary) of victims to legal service agencies dealing with immigration issues as well as a refusal of local law enforcement to cooperate with U.S. Immigration & Naturalization Service and/or Border Patrol in apprehension of victims of domestic violence.

Evaluation of the Criminal Justice System by Attorneys

The attorneys were asked to rate the effectiveness of the criminal justice system in responding to the problems of battered immigrant women. On a scale of 1-7 (where 1 is very poor and 7 is excellent), the attorneys' responses ranged from 1 to 5 with a mean of 3.3 (i.e. less than the midpoint of the scale). Positive points the attorneys listed included the use of interpreters by law enforcement, the time spent by police to inform victims of their rights, the enforcement of protection orders, and a willingness of criminal justice agents to understand the larger contextual issues surrounding domestic violence and immigration as recent examples of improvements made in serving this vulnerable population. The availability of an advocate as an intermediary in police-

victim interactions was also mentioned as a positive element in law enforcement interactions with immigrant victims.

Criticisms of the criminal justice system's response to battered immigrant women were abundant. One attorney stated, "Criminal justice agents' goal is to prosecute--not to keep the victim safe." Another respondent reported the following:

The criminal justice system does not work effectively for poor people. Every day I see victims of domestic violence charged as a result of defending themselves who would be cleared if they had a decent lawyer. The defense attorney and legal aid attorney are underpaid, under trained, and overwhelmed. There is a quote "I would rather be rich and guilty than poor and innocent". It holds true for our clients.

In assessing the criminal justice system vis-à-vis battered immigrant women, the attorneys noted a lack of diversity among institutional responses to this population. They stated that criminal justice agents exhibit insensitivity, a conspicuous dislike of non-English speakers, assumptive routines of action, as well as a general apathy to connect to the needs of this population or learn about how agent behavior within institutions can influence the realities facing battered immigrant women. Some comments were as follows:

System seems to see everything in black/white terms.

There is little understanding of how actions taken in the criminal justice system affect battered immigrants. Both how they are treated as victims and how they are [...] perpetrated.

Language barrier, lack of training in domestic violence, lack of training in culture sensitivity, lack of training in VAWA immigrant petitioning options.

The criminal justice system (with the exception of special domestic violence courts) doesn't have the understanding of DV or the time to really hear information about a client's individual circumstances so clients are encouraged to take pleas.

Although there are ongoing training for the criminal justice system, many do not know of the additional barriers immigrant women face. One big factor is the language.

Within law enforcement, attorneys reported discrepancies of practice from jurisdiction to jurisdiction and from officer to officer. “Local law enforcement [are] at times seriously compromised by family ties” and was subject to being “buddy-buddy with abusers... [the police] don’t take fear of the battered women seriously, don’t punish the abuser for violating restraining order.” The following anecdote from one attorney illustrates a recent trend in police reporting and judicial practice:

Jurisdictions vary. Tucson Police Department (the main enforcement in our area) responds poorly to domestic violence incidents involving non-English speakers. Reports may state a witness “said” something when there was no verbal communication in the witness’ own language. Mutual arrests for domestic violence are more common recently. In Pima County Justice Court, there were four cases where victims who declined to testify in court against batterers were charged with giving false information to police in police reports.

Other respondents mentioned the lack of enforcement of protection orders and federal and state law enforcement issues:

Women are also afraid of the police because they have witnessed their husbands communicate with the police officers: language barriers. Or a situation where the police officer did not enforce the order for protection.

The criminal justice response is generally slow and relatively insensitive – although victims can get protective orders, these are rarely and inconsistently enforced by local police agencies.

The question is difficult to answer. In general, poor. Anecdotally, in a recent case, a Peruvian woman was staying at the shelter with her two young children. It appeared that she was abducted by her abuser and/or his family members. The shelter contacted the police and filed a missing person’s report. The local police turned it over to the FBI, who conducted an international investigation, eventually locating the woman and her children in Peru. We were surprised at the resources which were committed to this investigation, and have mixed responses/reactions to the chain of events. In another case, after a battered immigrant woman secured an emergency custody order to get her child from the abuser, she sought police assistance to execute the order. The police were more concerned with her immigration status and assumed she resided in a house with drug

dealers based on her assumed nationality. A great deal of advocacy was necessary. Police are a microcosm of a racist society and reflect it accordingly.

Some attorneys pointed to obstructions within the judicial system response:

In Utah, there is general support and victims' services available to immigrant crime victims, including domestic violence victims. In general, the police are trained and respond appropriately. The state courts, family service state providers and state attorneys don't always understand or take into consideration all the appropriate contextual issues.

Women are terrified of the criminal justice system. They feel the judges are unsympathetic and impatient especially if the women do not speak English or have witnesses to corroborate their stories.

Ethnic/Cultural Considerations in Legal Services to Battered Immigrant Women

Another concern addressed by the attorneys was how culture and ethnicity affected the provision of legal services to battered immigrant women. Oftentimes, because of these factors and how they interact with the criminal justice system, attorneys are compelled to adopt more than one professional role in order to ensure the safety of, and seek justice for, the client. They are called upon to act not only as an attorney but also as a caseworker or advocate. Also the views of victims and their communities concerning domestic violence usually affect the kinds of intervention and approaches legal service providers must employ to assist immigrant women effectively. One attorney explained in this manner:

Of course language is an issue. Most of our immigrant clients are from other islands in the Caribbean. However, we occasionally have clients from other countries where there may be much more cultural pressure to keep silent about these kinds of issues. For them our system is much more foreign and intimidating so we try to be sensitive to these fears and take extra time to explain what their options are and how our criminal justice system works.

Attorneys also noted that the cultural background of an immigrant victim may affect the choices she makes when attempting to flee a violent relationship, as well as

the options (or lack thereof) available to her within the criminal justice system, the social service system, and legal services. Some respondents answered as follows:

We serve low-income immigrant women. Most of our clients are Latina, living in Washington D.C. The majority of clients are quite poor with limited or no English capability. They have usually been in the U.S. for several years. There is a large Latino population in Washington D.C. Immigration status does not affect our representation, but may affect client's decision to leave, pursue a divorce, etc. Also, it may affect ability to access public benefits. We provide culturally sensitive bilingual services. We are well trained and have become experts in the field.

Yes, I find that most Asian women, for example, are reluctant to discuss or seek assistance on domestic violence issues. There appears to be more cultural repercussions of being divorced or abandoned by a husband. Because of some language barriers, some of the women I assist are reluctant to get help. Primarily these are my Brazilian (Portuguese speaking) women.

Yes, it affects the barriers she must overcome to get help. It affects her options (e.g. immigration status will play a role in whether she can get public benefits). Immigration status can also affect what issues the abuser may raise in a family court case (e.g. She is undocumented, thus, I should get custody of the kids).

Attorneys reported that the victim's community might not view domestic violence as either criminal in nature or beyond the realm of a woman's responsibility to endure in order to keep her family together. Some attorneys also emphasized the likelihood of violent reprisals from the batterer's family or the victim's family, or abandonment by the victim's community:

Many fear reporting the abuse and are not protected by protection orders. Fear of reprisals by others in the community.

One of the main safety concerns is the closeness of the community. If a woman decides to leave, her chances of being seen and stalked daily are extremely high. For this purpose we advise our women to know proper safety plans. This community is very close and everyone knows each other, this is another barrier for the immigrant woman.

Yes, many of our clients come from an experience where abuse by husband/his family has been the norm, so our "mainstream" ideas of domestic violence reporting, shelter, etc. are conflicting- so we must be

very conscious and sensitive. Each woman has a different acculturation experience which we need to consider in trying to help.

Deportation-subject to violence in Mexico from spouse or spouse's family.

Concern that leaving husband or domestic partner will jeopardize immigration status or their rights to custody of children. In some cases, shame or ostracization from cultural or ethnic community.

Similarly, a victim's religious community and its lay leaders can negatively impact the willingness of immigrant women to report the violence and may also pressure them to drop any charges:

Yes-I had a client who told me that her pastor basically told her to stop making trouble when she reported domestic violence. There must be something done to counsel religious leaders in communities to not blame the victim and be sensitive to domestic violence issues that come up!

Recommendations for the Criminal Justice System

Recommendations for the criminal justice system focused upon establishing, continuing or renewing training and education efforts of all criminal justice agents, specifically law enforcement personnel, judges, and prosecutors. Curricula would focus on domestic violence and immigration issues and how these two social phenomena affect the experience of battered immigrant women vis-à-vis the criminal justice system and the majority culture. Recommendations also suggested increased use of interpreters at all encounter levels with criminal justice agents, case monitoring done by advocates, and the utilization of victim-advocates to accompany police to domestic violence incidents. Some attorneys made these suggestions:

The immigration consequences of criminal justice cases must be uniformly advanced in every case in which the victim and/or perpetrator is a non-citizen. Protection orders need to be issued routinely when the parties still reside together and creative immigration related remedies must be included. Avoid raising immigration issues in custody cases.

Do routine training of all officers, judges and prosecutors at least annually to sensitize and educate them about battered immigrant issues. Monitoring by domestic violence advocates. Have victim-witness advocates accompany police at all domestic violence incidents- likewise

appropriate interpreters. Don't penalize witnesses who decline to testify!

Training, education about the "wheel", etc. psychological abuse also.

Educate and sensitize police force and judges to battered women syndrome and cultural sensitivity.

More emphasis on problems in the civil court system, protection orders, family law cases.

Hiring more professionals within the criminal justice system to address domestic violence was frequently recommended by attorneys. A more fluid exchange of resources between law enforcement, prosecutors, legal services lawyers, and immigrant rights groups was also suggested, as well as increased collaboration between sectors in order to facilitate consideration of a victim's immigration status on a case-by-case basis and work towards finding alternative solutions:

Availability of domestic violence advocates, paralegals-working relationship of those with law enforcement along with increased training for law enforcement. One frequent problem is battered immigrant women have vulnerability to law enforcement because of criminal problems-drugs, alien smuggling, possible child abuse- sometimes because of affiliation with spouse, sometimes independently, sometimes their kids-possible problems with child protective services scare clients away.

Having personnel on hand for problems that are unique to immigrant women. Understanding the additional weapon of control the abuser has when the woman is undocumented.

Provide interpreters and referrals to immigrant rights groups.

Work with immigration specialists to create options, alternative resolutions to cases that can mitigate immigration consequences in appropriate cases. Decide on a case-by-case basis, taking into consideration what the woman wants; don't report "willy-nilly" to INS.

This area needs additional collaboration between law enforcement and prosecution and immigration advocacy community organizations.

For law enforcement, on-going training and education about immigration issues and domestic violence were repeatedly stressed, reiterating the sentiments for additional training in other justice system sectors. Recommendations were also offered on the following issues: separation of local law enforcement and Border Patrol/INS duties, more responsible, culturally sensitive police reporting with officers attempting to communicate with the victim in her native language, better enforcement of protection orders, the use of victim-advocates and/or interpreters at domestic violence incidents, and increasing the number of women officers on the force:

More training of police in domestic violence. Recruiting more officers to work with domestic violence who are already sympathetic to domestic violence.

Better police reporting, but not necessarily more frequent arrests.

I recommend much more training on cultural issues and sensitivity to those who do not understand the law as well because they are immigrants.

Confidentiality and immunity from immigration problems as a result of using criminal justice system. Sensitivity training. Better availability of bilingual outreach brochures and resource referrals. Women officers.

Community and other local courts and local police trained in domestic abuse problems--would NOT include reporting undocumented victims to the Border Patrol.

Policy makers were asked to reconsider current VAWA laws in relation to the needs and realities of battered immigrant women. Particularly, women who live in border towns and frequently cross between the U.S. and Mexico⁴ and women who have limited access to public benefits pose a problem. The attorneys explained in the following:

In our area and other border towns the violence and also many other factors, good and bad, extend from and relate to two cities and family ties on both sides of the border. The natural relationship presents many legal problems for immigrant battered women, such as possible unavailability of VAWA relief for frequent crossers who have bars to eligibility under current law. That is just one example. Relationship with Mexican advocates and authorities (law

enforcement judiciary) should be worked on. Ironically, improvements in Mexico may weaken VAWA applications.

That all domestic services be available easily to women--i.e. in NYC the shelters rely on their clients receiving public assistance. An immigrant client becomes a financial burden and will get rejected (they'll come up with other reasons). Some housing programs are citizen based, again creating a hardship for shelters who get stuck with clients they can't place.

As echoed in the recommendations of the social service providers, some attorneys suggested that legal services corporations (LSC) waive their immigration status requirements for eligibility so that LSC funded programs would be free to represent all battered immigrants. An attorney pointed out the following:

I think federal funding standards need to be loosened up so it is easier to help immigrant clients. I think a lot of legal services organizations just don't help these clients for fear of getting in trouble with their (federal LSC) funders. Many organizations also don't have the knowledge about legal immigration issues to adequately serve these clients.

Also mentioned were public education campaigns targeted on informing immigrant women of their rights and on communicating to them that they will not be deported if they contact the criminal justice system for help. Some respondents provided these suggestions:

Public education campaign that immigration status is not threatened by seeking help from the criminal justice system.

Continued education is our best hope.

Conclusion

The attorneys offered valuable insights into the difficulties and hurdles attorneys and their battered immigrant women clients face in pursuit of justice. There was a consensus that these women are among the most needy segments of immigrant communities of all ethnic or national groups and the most difficult population to serve. Issues of particular importance identified by the attorneys included the overwhelming

caseloads and corresponding difficulties of providing free or nominal fee services to a diverse population that is among the poorest and most isolated in the United States. They highlighted the cumulative impact of factors that keep immigrant women in violent relationships: fear of both local law enforcement and the INS that deters women from reporting the abuse, difficulties in documenting long-standing abusive relationships, and accessing the full range of benefits and institutions that may be of some assistance.

The attorneys identified justice system-related hurdles that contribute to immigrant women's reluctance to report abuse. These include a lack of sensitivity and training/education shown by justice system agents and unfair treatment of non-English speakers in the justice system and among law enforcement. This particular hurdle is evidenced by a dearth of interpreters and victim advocates in the courts and police stations that serve immigrant populations in their districts. Other serious problems included discriminatory immigration laws that only helped some categories of immigrant women⁵, and the interplay of ethnicity, culture and immigration status for battered immigrant women attempting to escape violence in the home, thus risking the loss of her family and community. The attorneys also mentioned the risk of dual arrest to women who report abuse and have communication difficulties with authorities or have a criminal record for themselves or their batterer. The cumulative effect of these factors is to deny the legitimacy of their claims of abuse and their need for protection and justice.

The obstacles and high stakes involved in working with battered immigrant women create a need for secrecy in seeking relief and demand that attorneys plan creative solutions for every mundane task. They need to be constantly on guard with any advice they offer or course of action they take. They also are expected or compelled to attend to clients' needs that are beyond what is considered routine work for legal service providers.

In light of this reality, attorneys recommended both policy and programmatic changes in the justice system, as well as attitudinal shifts towards immigrants and domestic violence by justice system agents and the larger community. On-going education and training concerning domestic violence in both the larger society and in immigrant communities and at all levels of the justice system were recommended. Collaborative efforts between legal service providers and criminal justice agencies were also encouraged. More personnel--domestic violence-trained police officers, prosecutors and judges, victim-advocates, paralegals, interpreters, and attorneys--were cited as the types of critical resources needed in order to remedy the complex and multi-layered needs of battered immigrant women.

The treatment by the justice system of battered immigrant women undermines, according to the attorneys, their attempt to receive adequate and informed legal representation, to understand their legal options, and to hold their batterer accountable for the violence. It denies battered immigrant women recourse to social services to escape the violence, and they cannot engage the justice system without fear that they will be deported or lose custody of her children.

Creating an awareness of current discriminatory practices through on-going education and training and evaluating the way in which immigration law continues to fail to offer protections to battered immigrant women, both documented and undocumented, will assist in instituting change for the justice system agents and policy makers alike. Both must be willing to address these issues head-on, both as individuals and institutions. Only comprehensive and system-wide measures can shake the apathy and indifference towards battered immigrant women that perpetuate violence and simultaneously silence its victims.

¹ The locations the respondents included Florida (Orlando and Miami), Arizona (Tucson), Utah (Salt Lake City), Colorado (Alamosa and Denver), Virginia (Falls Church), California (Glendale, Sacramento and San Jose, Santa Cruz), New Jersey (Newark), Washington (Seattle), Oregon (Portland), Washington D.C., Texas (El Paso and San Juan), Georgia (Atlanta), New York (Kingston, New York City, White Plains) and the Virgin Islands (St. Thomas).

² VAWA 2000 offered the possibility of a new crime victim visa to immigrant victims in each type of the relationships listed above.

³ The new legislation passed in October 2000 offers much of the very assistance for which they were waiting.

⁴ This problem was partially resolved in VAWA 2000.

⁵ These categories were expanded in VAWA 2000.

Chapter 6: Conclusion and Policy Implications

Global economic changes, political conflicts and upheavals around the world have caused large numbers of people to escape poverty, wars, political oppression, and civil unrest through migration. For those seeking new opportunities to improve their living conditions or looking for asylum and refuge, the U.S. has been one of the most desirable places to immigrate to and settle.

Recent waves of immigration to the U.S. have made the presence of immigrant populations felt in all states, not only in the "traditionally receiving states" of past decades. Immigrants no longer only inhabit states such as New York, California, Florida, Texas or Arizona, but, as our surveys indicate, their presence is documented in practically all regions of the country, including urban and rural areas in the East coast, West coast, and Midwest regions. The recent U.S. 2000 census confirms that the percentage of immigrants has increased in every state, and immigrants are present in significant numbers in all parts of the country. The current population of the U.S. encompasses a mosaic of cultures, races, ethnic groups, and linguistic communities. Substantial numbers come from non-English speaking backgrounds. A significant portion of the recent immigration flow includes undocumented persons, most originating from countries in the Western Hemisphere, particularly Central and South American nations. Recent population studies have predicted that in two decades immigrants will constitute over one quarter of the U.S. population (Fix et al. 2001).

The emphasis of U.S. immigration law on familial ties for the right to immigrate to the U.S. has allowed many individuals to settle in this country as immigrants,

temporary workers, asylum seekers, or refugees. But family-based immigration laws that generally give a spouse or parent control over the immigration status of their dependents endanger numerous immigrant women whose familial attachments are to batterers. In such cases, family-based immigration laws can be a major factor contributing to abuse, isolation, and oppression.

The exploratory research reported here demonstrates that despite their diversity, immigrant communities have one thing in common with each other and with the U.S. society in which they live: the patriarchal social order that does not hold abusers accountable and that supports violence against women. In many immigrant communities, this social order tolerates and often denies the violence--protecting the perpetrator and silencing the victim. The report documents that violence against immigrant women, although prevalent and persistent, is particularly difficult to redress. Deep-seated gender ideologies (e.g., prevalent notions that women are inferior to or dependent upon men, that violence is a normal part of marriage) in immigrant communities (see also Huisman, 1996; Sorenson, 1998), as well as in mainstream society (Okin, 1998) constitute a major hurdle to overcome in addressing violence against immigrant women. Combined with a justice system that favors English speakers, that does not provide for impartial interpreters, or that allows stereotypes about immigrant communities to interfere with victims' access to relief, they have a net effect of tolerating, and in some instances even encouraging, violence against immigrant women. The crosscutting themes emerging from the responses of the immigrant women, social service providers, and family and immigration attorneys confirm that in the lives of immigrant women, gender interacts

with immigration status in ways that intensify and compound the abuse. In many cases, abusers use immigration status as a tool to control their immigrant partner, often threatening the women with deportation, with taking away the children, or otherwise using the woman's status to intimidate them to stay and endure psychological torment, physical abuse, and captivity.

Other pernicious experiences commonly associated with being an immigrant--poverty, racism, and xenophobia--intermix with gender ideologies, increasing an immigrant woman's vulnerability to violence and reducing her ability to seek help. Multi-dimensional fears predispose battered immigrant women to forgo attempts to seek help or justice. They include the following: fear of law enforcement agents reporting their status to the INS if she discloses the violence; fear of retributive action by the abuser, his family or her immigrant community--often the only community they know--for reporting the abuse; and fear of not being understood or believed by justice system agents. Battered immigrants might also fear that a lack of English fluency will cause others to judge as untrustworthy or undeserving of fair adjudication, that they would not be able to survive without their abuser, and that they would be separated from or lose their children. These issues significantly disadvantage immigrant women in their appeal to the justice system and when left unattended to, simultaneously undermine the system's potential to be helpful in response.

Anti-immigrant sentiments compound the plight of all immigrants, heightening their insular existence and their suspicion of outsiders, including agents of the justice system (see Davis and Erez, 1998). These sentiments have been particularly harmful to

battered immigrant women, who remain in abusive relationships, because they either do not know that woman battering is a crime, or are afraid of utilizing social and health services, contacting advocates and legal services, calling the police or asking the justice system for help. As this report documents, for battered immigrant women, the complexities of immigration laws designed to help immigrant victims, the lack of access to a full welfare safety net, and the cultural and linguistic barriers to accessing civil and criminal court assistance weaken battered women's rights for "equal protection" or "equality before the law." Immigrant women's "access to justice" is seriously compromised through the convergence of cultural, social, and legal circumstances (Erez, 2000; Davis et al., 2001). Although some of the constraints on access to justice have been alleviated or removed by recent legislation, particularly with regard to welfare and legal services access (mostly through the Violence Against Women Act of 2000), there are still many legal hurdles or erroneous perceptions about the law that prevent immigrant women from extricating themselves from violent relationships. Lack of legal services for those who have made the difficult decision to seek help also hampers battered immigrants' prospects to safely survive domestic abuse.

All immigrants suffer alienation, isolation, and loneliness induced by the distance from the familiar context of their homeland, and all are exposed to prejudice and discrimination in the U.S. However, as this report documents, women often suffer disadvantages and hardships related to their status as immigrants (and as women) over and above those endured by their male counterparts. Men generally immigrate to improve their life chances through better employment or educational opportunities. A

greater proportion of women, however, immigrate because of their familial ties. As our report has shown, most of the abused women interviewed came to the U.S. because they followed a spouse or desired family unification. As wives and daughters, they substitute or eradicate their own needs and interests for those of their menfolk. Yet our data show that women who immigrate to the U.S. because of familial ties, marriage obligations (voluntary, arranged or forced), or as an attempt to improve their life chances through education or better employment often suffer multi-level hardships in their efforts to adapt to life in the U.S. When their immigration status is tied to a family member, these hardships are compounded and intensified.

For many women immigrants, their move to the U.S. exacerbates their gender-linked vulnerability and powerlessness. For those who are married, the experience of immigration heightens their dependency on their partner. As our results demonstrate, the process of immigration often increases the level of pre-existing violence or is associated with the onset of violence. Yet, paradoxically, as the preceding chapters suggest, the very policies that seek to assist immigrant women to escape from violence often reinforce their dependency and keep them trapped in abusive relationships. For example, legal providers have reported that an immigrant woman's chances for permanent legal status under VAWA may be reduced if she is convicted of criminal charges. Conviction can result from her call to the police for help, when the police make a dual arrest (see Ferraro, 1989) rather than arrest only the primary aggressor. She is then charged with a criminal act to which her uninformed defense attorney encourages her to plead guilty. Social service providers explained how battered immigrant women are often forced to return to

their abuser while waiting for self-petition approval (a process which can take up to two years) because of their lack of eligibility to vital public benefits (such as Temporary Aid to Needy Family, food stamps, Medicaid), low-income housing programs, and childcare services.

Implications for Justice System Policy and Research

The presence of multiple cultural enclaves in the U.S. representing a diverse set of countries from several continents has posed serious obstacles to the justice system. Research conducted by the National Institute of Justice confirmed that dealing with cultural diversity is one of the major challenges for the criminal justice system (McEwen, 1995). The diverse cultural makeup of the community requires justice system agencies and personnel to modify their procedures and responses to violence against women.

Both the justice and the social service systems need to expand their capacity to adequately serve immigrant populations by hiring multi-cultural staff in law enforcement, the courts, and legal and social service agencies. Staff familiar with the culture and language of immigrant communities needs to be recruited, retained, and promoted. Training in cultural awareness and understanding for non-immigrant justice officials has also been advocated (e.g. Davis and Erez, 1996, 1998; Jang, Lee and Morello-Frosch, 1990). For battered immigrant women, addressing gender dimensions of culture are particularly important, as are the ramifications of the interaction of gender with their minority group status. For too long, respect for cultural diversity has been used as the basis for the denial of rights to immigrant women, particularly justice system protection from their batterers (Okin, 1998; Erez, 2000; Volpp, 1994).

Cultural sensitivity needs to extend beyond the condemnation of patriarchal values that support the oppression of the most vulnerable section of the community and to needs address the multiple biases and prejudices that battered immigrant women have to overcome in their attempt to flee violence in the home. Condemnatory prejudgments and misconceptions surrounding battered immigrant women should be examined. As our data confirm, prevailing myths that immigrant women are using marriage to jump immigration queues, that their dependency is freely chosen and embraced, that they are unwilling to work or become self-sustaining, that violence is a "normal" part of their culture, that they are uncooperative with authorities who come to their rescue, or that they can simply leave their abusive husband, their cultural communities or the new country do not accurately portray battered immigrant women's experiences.

Some have argued that training justice system agents to be fair and professional in carrying out their work is more important than teaching them cross-cultural sensitivity or facilitating the comprehension of another language or culture. Because ethnic and immigrant groups are often perceived as associated with marginality and crime (both as offenders and victims), it is important for law enforcement agents working in diverse communities to demonstrate a genuine regard for due process of law. But it is also critical that they show appreciation of the special gender-related vulnerabilities of immigrant women and of the way in which immigration status makes them susceptible to mistreatment and abuse, both inside and outside the home.

The special vulnerability of immigrant women to battering and the numerous barriers that increase their reluctance to reveal the abuse, to seek help, to utilize services,

and to pursue justice suggest that justice agents and social and legal service providers need to examine their traditional ways of reaching and serving immigrant victims. This is particularly cogent when the vulnerability of immigrant women to abuse by a spouse (or by employers, sponsors, etc.) is likely to increase as the legal means by which immigrants can gain legal permanent residency become more restricted. Social service providers, lawyers, and justice system personnel cannot service immigrant victims effectively if victims' complex and interconnected needs are not addressed. Services can be offered through language- or culture-specific domestic violence programs, which can be incorporated into existing community-based service networks of various immigrant communities. Another possibility is to establish within existing mainstream community service organizations, through alliances and collaborative work with immigrant communities, special services geared toward immigrant women from these specific diverse communities.

Efforts to reach immigrant victims/survivors and provide them with information about the criminality of domestic violence, options, and available services need to be systematized. In particular, awareness that the justice system can be an ally of immigrant battered women has to be raised even before immigrants begin the process of immigration. For instance, the INS and the U.S. Department of State should develop a brochure that provides basic information about legal rights in the United States, including information on the criminality of domestic violence and its being a deportable crime. Additional critical information in such a brochure should address the legal options for victims of family violence, the Violence Against Women Act provisions, the crime

victim visa protections (which extend beyond violence against women), the number of the National Domestic Violence Hotline as well as information that the hotline's services are available in any language using professional translators. The brochures should be translated by each U.S. Consul post into the language of the country in which that post is located and distributed to all immigrants.

Materials on the legal rights of battered immigrants also need to be developed on a national level and distributed to justice system, social services, legal service and health care programs throughout the country. This will avoid agencies having to expend resources in each community and will avoid duplicating efforts. These materials need to be translated into multiple languages and should also include cultural adaptations. The translations and adaptations should be done by agencies that have experience working in specific immigrant communities and by agency staff from those communities. Materials need to be developed and available in multiple languages at a simple level, with basic information to reach immigrant victims with less education and lower reading levels, as well as on a more detailed level for immigrant victims with higher educational levels. These latter materials will also be particularly useful to support the work of immigrant survivors working as advocates for other women in their own immigrant communities. The materials developed should be distributed to justice system entities and community organizations in electronic format so that local organizations can insert their own local issues and contact information in the brochures.

Engaging in issues of violence against women and of immigration, particularly those related to deeply entrenched notions of gender and the "natural order of the world,"

will not be easy or simple (Kelly, 1999; Erez, 2000). Nor are education and heightened awareness a guarantee that attitudes or behaviors of justice agents will change, or that immigrant women will overcome their fears or make use of available services. That, however, cannot be a justification for preserving the inadequacies of the status quo, as documented in this report.

For the short term, recommendations that justice system agents focus their training efforts at the initial contact level by honing interviewing and assessment techniques were of noteworthy importance. At all contacts with immigrant victims, police, prosecutors and the courts must use impartial translators if bilingual officers are unavailable, taking time and effort to explain and inform victims of the legal process, of their options, and of services. Each agency must include funds in agency budgets to pay for interpretive services. Additionally, more domestic-violence trained police officers, victim-advocates, prosecutors and judges need to receive training on battered immigrants, legal immigration options including VAWA, and the new crime victim visa. Legal and social service providers should encourage justice system agents to collaborate with programs serving immigrant communities and "leave the office and go out into the community." Only by interacting with the immigrant communities they serve will the justice system staff be able to tangibly cultivate knowledge about and sensitivity to the needs of immigrant victims/survivors. As a first step, justice system personnel involved in coordinated community responses to domestic violence need to collaborate with mainstream victim service providers in reaching out and integrating in their activities

programs from immigrant communities and service providers with experience in serving immigrant victims.

Services offered to immigrant women must be culturally appropriate and must meet their special needs and circumstances. A pressing problem is the need to detach criminal justice policing from the enforcement of immigration policies (e.g., police acting as Border Patrol, inquiring about the immigration status of a victim or a batterer, or reporting to INS of "suspicious persons"). Further, since most battered immigrant women are unaware that they may be able to attain legal immigration status without their abuser's knowledge or consent, there is a dire need to educate police and service agencies about the immigration rights of battered women so that they can more readily identify battered women who qualify. Police should advise women, whom they think might be immigrants, that services are available for them regardless of immigration status and that service agencies will treat them with confidentiality, advise them of their immigration rights, and help them with immigration authorities. This educational outreach should also be extended to the public at large, and particularly to immigrant communities, whose members, as friends and family members of female victims, can be instrumental in bringing help options to the attention of victims.

While immigration legislation affords battered immigrant women some protection, justice system agents, welfare agency staff, and social service providers need training on the new law so immigrant victims can fully exercise their new legal rights. Further, legislation is needed to ensure that battered immigrants can access the full range of public benefits and legal services. In the post September 11, 2001, trend to link more

closely Immigration and Naturalization Services (INS) and law enforcement functions, there will be a need to carefully examine and monitor law enforcement practices to ensure that immigrant crime victims are not deported in contravention of their existing legal rights to immigration benefits and justice system protection.

All INS officers, particularly those working in enforcement, should receive training and field guidance which require them to screen all persons who may be detained for potential immigration violations by determining whether they qualify for the Violence Against Women Act immigration protections, the T-visa protections for victims of trafficking in persons, or the U-visa crime victim protections. INS should expand its victim-witness coordinator program to have trained victim-witness coordinators not only at every district office but also at every INS office or location. This will enable INS to work more closely with victim services programs to ensure that crime victims in general, and victims of violence against women in particular, are identified and assisted in applying for immigration benefits they are entitled to receive. INS should issue a policy prohibiting any INS official from contacting or seeking alleged undocumented immigrants or from carrying out any enforcement action at domestic violence programs, battered women's shelters, or court protection order proceedings. INS is already prohibited by federal law from relying on information provided by an abuser to take action against an immigrant victim of domestic violence.

This research demonstrates that justice system officials, social and legal services providers working to help battered immigrants are constantly called upon to offer services and assistance that they may have previously considered to be "outside of the

mission of their agency.” The compartmentalization that can occur when service providers and justice system officials place arbitrary limits on what they are willing to do for victims harms all battered women, but particularly immigrant women. As battered immigrants struggle to seek justice and social service system help to curb the domestic violence they experience, they encounter a justice and social service system in which officials and agency staff are not fully educated about battered immigrant victims’ legal rights. Many of the reports from advocates and service providers in this research demonstrated gaps in knowledge concerning battered immigrants’ legal rights within the justice system and possessed by many social and legal service providers themselves, including those that specialize in serving immigrant victims.

Justice system personnel, immigration lawyers, legal services professionals, and social service providers need to have access to technical assistance experts who can provide them with accurate information about battered immigrant women’s legal rights so that providers and lawyers in each community do not have to expend their extremely limited financial resources, as reported by agency participants, to reinvent the wheel in creating training and educational materials for allied professionals in their community. They need to be able to contact experts in areas such as battered immigrants’ legal options with regard to immigration, custody, protection orders, and access to social services, public benefits, and provided protection by the police and the courts. Technical assistance experts should be able to provide advocates, attorneys, and justice system personnel with assistance in determining legal rights in individual cases and in resolving systemic problems (e.g., police and courts asking immigration status of victims,

probation, INS or police officers demanding that battered women's service providers violate confidentiality laws and funding requirements, or battered immigrants being turned away from public benefits that they or their citizen children are qualified to receive).

The long-term public policy goal needs to be empowerment of immigrant women so they are able to resist violence on their own terms. Language skills, leadership training, education, housing, and employment opportunities minimize the dependence of immigrant women. As our report suggests, inability to become economically independent or to sustain themselves and their children on their own keeps many battered women in abusive relationships. This empowerment objective, however, is not achieved quickly nor is it accomplished without some investment.

The major obstacle influencing immigrant women's marginalization is their reluctance to make contact with social services and the justice system for fear of jeopardizing their immigration status or deportation. There are grave ethical issues confronting multicultural societies concerning the provision of humane support for all people within its borders, irrespective of immigration status. In light of this imperative, we must continue to reexamine laws and procedures by which abused immigrant women have to navigate in order to resist or escape violence. It is also critical that immigrant women are provided the legal services and advice that may help them in their attempt to flee the violence in their lives. They also need to receive assurances from social services and justice system personnel that they will not be penalized for disclosing the abuse or for seeking help. An integrated community approach is needed to address the

multifaceted needs of immigrant women, and the participation and cooperation of multiple social institutions and agencies charged with the physical, mental and spiritual welfare of communities, particularly immigrant ones, would facilitate the creation of that integrated community approach. Further, the actors in this integrated system approach need to be able to access the technical expertise they need to help immigrant victims in their communities.

It is therefore critical to simplify the procedures and expedite the processes battered immigrant women need to follow in their search for safety. Media attention to abuse behind closed doors and in diverse and sometimes closed communities can shed light on the way restrictive immigration and welfare policies produce, sustain, or compound victimization. We also need to reformulate research and policy directions to focus on how we can ensure that legal and welfare systems abide by their obligations towards a silent and socially excluded section of the population.

It is also important to be reminded of the global context of violence against women, and the way countries, including the U.S., through trade relationships, defense or military activities, labor regulations, immigration laws, and foreign affairs policies, may contribute to or benefit from the dire conditions in other countries (Erez, 2002). Some of the tribulations of the immigrant women whose voices are heard in this report, or whose predicaments are documented through the accounts of their social service providers, attorneys or legal advocates, can be linked to such politics, laws, and policies. Many of the hardships experienced by battered immigrant women can be alleviated if justice and social system advocates are provided with the training, technical assistance, interpretive

services and financial resources they need to develop and sustain programs that are sensitive to the needs of immigrant victims. But beyond technical aid, programmatic and resource issues, it is important to continuously seek creative ways to address the vulnerability of immigrant women to violence and to recognize the obligation toward victims of globalization, so many of whom are or become, through their transitional experiences, battered immigrant women.

APPENDIX A

Report on Victims of Trafficking and Violence Protection Act of 2000**Division B b Violence Against Women Act of 2000****Title V b Battered Immigrant Women**

Provision	' Number and INA ' Amended	Description
Intended Spouse Defined	1503(a) 101(a)(50)	Defines the term "intended spouse" as a person who went through a formal marriage ceremony either in the U.S. or abroad with either a citizen or a permanent resident but whose marriage is illegitimate solely because of the bigamy of such citizen or permanent resident.
Self-petitioning spouses of citizens Delete U.S. residency requirement	1503(b) 204(a)(1)(A)(iii) & (iv) 204(a)(1)(B)(ii) & (iii)	Provides battered immigrants living abroad access to VAWA self-petitions. The battered immigrant must be abused by their citizen or permanent resident spouses or parents: who are U.S. government employees; or who are members of the U.S. uniformed services (including military members); or

Provision	' Number and INA ' Amended	Description
		and one or more of the incidents of battering or extreme cruelty occurred in the U.S.
Delete extreme hardship requirement	1503(b) 204(a)(1)(A)(iii) & (iv) 204(a)(1)(B)(ii) & (iii)	Deletes the extreme hardship requirement in VAWA self-petitioning cases.
Extend VAWA self-petitions to spouses of bigamists	1503(b) 204(a)(1)(A)(iii) & (iv) 204(a)(1)(B)(ii) & (iii)	Allows battered immigrants who unknowingly marry bigamists to file VAWA self-petitions if the battered immigrant went through a formal marriage ceremony either in the U.S. or abroad and believed in good faith that she had married the U.S. citizen or permanent resident, and the marriage was not legitimate solely because of the bigamy of such citizen or permanent resident.
Filing within 2 Years of Divorce	1503(b)(1)	Permits battered immigrants to file VAWA self-petitions within two years of the

Provision	' Number and INA ' Amended	Description
from, Death of, or Loss of Citizenship of a Citizen	204(a)(1)(A)(iii) & 204(a)(1)(A)(iv)	divorce, death (only in the case of a citizen abuser), loss of immigration status, or denaturalization of the abuser. Battered immigrants whose spouse lost or renounced immigration or citizenship status within the past two years must demonstrate that the loss of status is related to an incident of domestic violence. Within two years of divorce, battered immigrants must demonstrate a connection between the legal termination of the marriage and the battery or extreme cruelty.
Self-Petitioning Children of Citizens	1503(b)(2) 204(a)(1)(A)(iv)	Protections for abused children of citizens offer the same relief described in Secs. 1503(b).

Provision	' Number and INA ' Amended	Description
Filing VAWA Self-Petitions Abroad	1503(b)(3) 204(a)(1)(A)(v)	Sets out the procedures that allow victims living abroad to file self-petitions. Self-petitions may be filed abroad at a U.S. consulate or directly with INS in Vermont and will be processed at the INS Service Center in Vermont by a team of expert VAWA adjudicators in the same manner that all self-petitions are processed when filed within the U.S.
Self-Petitioning Spouses of Lawful Permanent Residents	1503(c)(1) 204(a)(1)(B)(ii)	Protections for abused spouses of lawful permanent residents offer the same relief described in Sec. 1503(b).
Filing within 2 Years of	1503(c)(1)	Please see Sec.1503(b)(3) for an explanation of this provision.

Provision	' Number and INA ' Amended	Description
Divorce from or Loss of Legal Immigration Status by a Spouse or Parent	204(a)(1)(B)(ii) & (iii)	
Self-Petitioning Children of Lawful Permanent Residents	1503(c)(2) 204(a)(1)(B) (iii)	Protections for abused children of lawful permanent residents offer the same relief described in Sec. 1503(b).
Filing of VAWA Self-Petitions	1503(c)(3)	Please see Sec.1503(b)(3) for an explanation of this provision.

Provision	' Number and INA ' Amended	Description
Abroad By Spouses of Permanent Residents	204(a)(1)(B)(iv)	
Good Moral Character Determinations For Self-Petitioners	1503(d)(2) 204(a)(1)(C)	Provides the Attorney General with the discretion to waive the bar to issuing a finding of good moral character as long as the act or conviction was connected to the battery or extreme cruelty. This waiver will be limited to crimes for which waivers are already available for reasons of inadmissibility under Sec. 212(a), and deportability under Sec. 237(a). Including new waivers created for battered immigrants by secs. 1505(a), (b), (c), (d), and (e). The Attorney General will be required to accept any credible evidence.

Provision	' Number and INA ' Amended	Description
Derivative Children Attaining 21 years of Age	1503(d)(2) 204(a)(1)(D)	Allows derivative children who are under 21 when the self-petition is filed to maintain derivative status under their parent's self-petition, even when they are no longer under 21. Also allows child self-petitioners to include their own children in their self-petitions.
Access to Naturalization of Divorced Victims	1503(e) 319(a)(1) & (2)	Expands the provision which permits naturalization after three years of permanent residence for the spouse of a citizen to include a divorced person and a person no longer living with her spouse in marital union, who became a permanent resident by reason of his or her status as the spouse or child of a citizen, and who was subjected to battery or extreme cruelty by that citizen abuser.

Provision	' Number and INA ' Amended	Description
Extends VAWA Cancellation to Immigrant Victims Whose Citizen or Permanent Resident Spouses Are Bigamists	1504(a) 240A(b)(2)(A)(i)(III)	Provides abused spouses of bigamists with access to VAWA cancellation of removal. See Sec. 1503(a) for an explanation of a parallel provision.
3-Year Tolling Provisions under Cancellation of Removal	1504(a) 240A(b)(2)(A)(ii)	Exempts battered immigrants who apply for VAWA cancellation of removal from the provision that terminates continuous physical presence when the noncitizen is served with a notice to appear or an order to show cause.

Provision	' Number and INA ' Amended	Description
Waiver for 90/180 Days Continuous Presence in VAWA Cancellation & Suspension Cases	1504(a) 240(A)(b)(2)(B)	Creates a waiver when there is a connection between the battered immigrant's absence from the U.S., or a portion thereof, and the abuse. The Attorney General will be allowed to waive certain breaks in continuous presence when there is a connection between the absence(s), or part of the absence(s), and the abuse. If the absence(s), or a portion of the absence(s), are deemed connected to the abuse, even if the total number of days absent 90 days for on absence or 180 days cumulatively, the battered immigrant will not be considered to have broken the continuous presence requirement. The extra days will simply be added on to the three-year presence

Provision	' Number and INA ' Amended	Description
		requirement. For example, if the battered immigrant is absent for a total of 190 days, she will be allowed to file for VAWA cancellation after she has been in the country for three years and ten days.
Discretionary Waiver for Good Moral Character Determinations for VAWA Cancellation and Suspension Applicants	1504(a) 240(A)(b)(2)(C)	Provides the Attorney General with the discretion to waive the bar to issuing a finding of good moral character as long as the act or conviction was connected to the battery or extreme cruelty. The Attorney General will be required to accept any credible evidence.

Provision	' Number and INA ' Amended	Description
Grant Parole to Children and Parent (in the Case of an Abused Child) of Applicants Granted VAWA Cancellation or Suspension	1504(b) 240A(b)(4)	Provides parole status to the children and parents (in the case of an abused child) of battered immigrants who have been granted VAWA suspension or cancellation from the time the abused parent or child is granted cancellation or suspension until they receive lawful permanent residence through a family-based relative petition. The abused immigrant granted cancellation or suspension must exercise due diligence in filing the family-based relative petition. This protection is available even if the parental rights of the citizen or permanent resident abusive parent have been terminated.

Provision	' Number and INA ' Amended	Description
VAWA Waiver of Inadmissibility for Re-Entry after Unlawful Presence, Multiple Illegal Re- Entries and for Re-Entry after Removal/Deportation Order	1505(a) 212(a)(9)(C)(ii)	Creates a waiver for battered immigrants in Sec. 212(a)(9)(C) which provides for a mandatory ten-year bar to re-entry for immigrants who have re-entered, or attempted to re-enter, the U.S. after being unlawfully present for one year as a result of unlawful entry or after previously being ordered removed from the U.S. The applicant must show that there is a connection between the abuse and the battered immigrant's removal or departure from the U.S. and any re-entry(ies) or attempted re-entry(ies) into the U.S.
Waiver of Deportation Grounds for VAWA Applicants with	1505(b)	Allows the Attorney General to waive the domestic violence ground of deportation in appropriate cases where the applicant is otherwise qualified for VAWA. Battered

Provision	' Number and INA ' Amended	Description
Domestic Violence Arrests or Convictions	237(a)(7)	immigrants who were subject to dual arrest when they acted in self-defense, were convicted of violating their own protection order, or committed other crimes connected to the domestic violence that <u>did not</u> result in serious bodily injury is eligible for this waiver. The waiver is only available to the person who is not the primary perpetrator of abuse in the relationship. In considering waiver requests under this section, the Attorney General shall accept any credible evidence.
Misrepresentation Waivers for Battered Spouses of U.S. Citizens and Permanent Residents	1505(c) 212(i)(1)	Includes battered immigrants within the scope of a 212(i) waiver of inadmissibility based on a misrepresentation when the immigrant can show that the failure to grant the waiver would result in extreme hardship to the immigrant's citizen or permanent

Provision	' Number and INA ' Amended	Description
	237(a)(1)(H)	resident spouse. Self-petitioners can obtain this waiver if they can show extreme hardship to self, child, or in the case of a child, their parent rather than their abusive spouse or parent. Also includes a misrepresentation waiver under 237(a)(1)(H).
Battered Immigrant Waiver: HIV Waiver	1505(d) 212(g)(1)	Allows battered immigrants who otherwise qualify under VAWA to file for waivers of inadmissibility based on a communicable disease of public health significance, including HIV or TB.
Extension of Existing 212(h) Waiver for Limited Minor Criminal Offenses to VAWA	1505(e) 212(h)(1)(C)	Extends discretionary waivers to VAWA-eligible battered immigrants who commit certain crimes including crimes of moral turpitude and multiple offenses, and offenses that are more than 15 years old. This provision is the counterpart to the

Provision	' Number and INA ' Amended	Description
Battered Immigrants		good moral character waiver contained in Secs. 1503(d)(2) and 1504(a)(iii) of this legislation. Battered immigrants need not show extreme hardship to their abusive citizen or permanent resident spouse in order to qualify for the waiver.
Public Benefits and Public Charge Clarification	1505(f) 212(P)	Bars the INS, consular officials, and immigration judges from considering public benefits authorized under IIRAIRA ' 501 when making public charge determinations in VAWA cases.
INS Report to Congress	1505(g)	Requires the INS to report to Congress on the manner in which they process requests

Provision	' Number and INA ' Amended	Description
		by eligible VAWA cancellation and suspension applicants who seek to be placed in removal proceedings. The report will provide information on a district-by-district basis and will provide incentives for the INS to develop and implement, at the INS district level, a system that will allow battered immigrants to apply for VAWA cancellation. The report will also include information on the time it takes after a battered woman asks to be placed in proceedings before she appears before an immigration judge at a master calendar hearing where she can file her VAWA case and request a prima facie determination.

Provision	' Number and INA ' Amended	Description
Remove Barriers to Adjustment of Status for Victims of Domestic Violence	1506(a) 245(a) & (c)	Permits a person who has not been inspected and admitted or paroled into the U.S to adjust his or her status to that of a lawful permanent resident if he or she has an approved petition for a preference classification as a battered immigrant VAWA self-petitioner. Also exempts battered immigrants from being considered ineligible for adjustment because of engaging in unauthorized employment in the U.S. or because of any of the other bars listed in 245(c).
3-Year Tolling Provisions under Cancellation of Removal and	1506(b)	Exempts battered immigrants who apply for VAWA cancellation of removal

Provision	' Number and INA ' Amended	Description
Suspension of Deportation	240A(d)(1) 309(c)(5)(C) of IRAIRA	and suspension of deportation from the provision that terminates continuous physical presence when the noncitizen is served with a notice to appear or an order to show cause. See sec. 1504(a) for a similar provision.
Eliminating Motion to Reopen Time Limits	1506(c) 240(c)(6)(C) 242(B)(c)(3) pre- IRAIRA	Provides VAWA eligible women with ability to file motions to re-open up to one year after the final adjudication of their removal case, if their motion is accompanied by evidence of qualification for VAWA self-petition or cancellation. This one-year time limitation can be waived by the INS or the Immigration Judge upon a showing of extraordinary circumstances or of extreme hardship to children. Extraordinary circumstances may include, but are not limited to domestic violence related to or

Provision	' Number and INA ' Amended	Description
		interferences with her participation in the removal case, or violence or cruelty of such a nature that not allowing the case to be reopened would thwart justice or be contrary to VAWA's humanitarian purpose. Battered immigrants with pre-IIRAIRA deportation cases are eligible to file a motion to reopen, if their motion is accompanied by evidence of qualification for VAWA self-petition or VAWA suspension. There is no deadline to file motions to reopen for these cases.
Effect of Changes in Abuser's Immigration Status	1507(a) 204(a)(1)(A)(vi)	Provides that changes to the abuser's immigration status after filing a self-petition under VAWA shall not adversely affect the approval of the petition. In the case of an approved petition, a change in the abuser's status shall not preclude the

Provision	' Number and INA ' Amended	Description
	204(a)(1)(B)(v) 201(b)(2)(A)(i)	classification of the self-petitioning person as an immediate relative (e.g. naturalization of the abuser) or affect the person's ability to adjust status to that of a lawful permanent resident. If the abusive U.S. citizen spouse or parent loses immigration status, divorces the battered immigrant, dies (only in the case of an abusive citizen), renounces citizenship, or is deported after the battered immigrant has filed her self-petition, the self-petition remains valid.
Allowing Remarriage of Battered Immigrants	1507(b) 204(h)	Clarifies that a battered immigrant's remarriage is not a basis for revoking approval of an applicant's self-petition and explicitly allows remarriage before the victim receives her green card based on an approved VAWA self-petition.

Provision	' Number and INA ' Amended	Description
Technical Correction in IIRAIRA Regarding Qualified Alien Definition for Battered Immigrants	1508 431(c)(1)(B)(iii)	Corrects two technical errors contained in IIRAIRA regarding eligibility for certain welfare benefits for immigrants battered by citizen or permanent resident spouses or parents. First, the language granting welfare access to VAWA suspension of deportation applicants did not cite the proper code section for the VAWA suspension provisions. Second, VAWA suspension applicants were allowed access to public benefits, but the section omitted reference to VAWA cancellation of removal applicants
Access to Cuban Adjustment for Battered Immigrant Spouses	1509(a)	Allows battered immigrant spouses and children of Cuban Adjustment applicants to adjust their status without demonstrating that she is residing with the Cuban spouse

Provision	' Number and INA ' Amended	Description
	Pub. L. 89-732	or parent
Access to NACARA for Battered Immigrant Spouses and Children	1510 NACARA 202(d) 309(c)(5)(C) of IRAIRA	Allows battered spouses and children of NACARA-eligible abusive spouses and parents to file for NACARA relief. Battered spouses and children must be related to the abuser at the time the abuser: was granted suspension or cancellation; filed for suspension or cancellation; registered for benefits under <i>ABC v. Thornburgh</i> ; applied for TPS; or asylum. Current residence with the abusive spouse is not required.
Access to the Haitian Refugee Fairness Act of 1998 for battered Spouses and children	1511 HRIFA 902(d)(1)(B)	Allows battered immigrant spouses and children of Haitian Refugee Immigration Fairness Act applicants to adjust their status

Provision	' Number and INA ' Amended	Description
Access to Services and Legal Representation for Battered Immigrants	1512 42 U.S.C. 3796hh(b)(5) 42 U.S.C. 13971(a)(2) 42U.S.C. 3796gg(b) Higher Ed. Amend. Of 1998 826(b)(5)	Clarifies that funds from all VAWA grant programs administered by the Violence Against Women Office of the Department of Justice may be used to provide a broad range of legal and social services for battered immigrant women, including assistance in VAWA immigration matters. The grant programs addressed are: STOP, Grants to Encourage Arrest, Rural VAWA Grants, Civil Legal Assistance, and Campus Grants. Further, the prohibition against using civil legal assistance funds for representation in immigration cases including VAWA self-petitions was specifically eliminated. This section also allows programs serving battered immigrants, prosecutors, or police to apply for STOP grant funding for a project that would train INS officers and/or

Provision	' Number and INA ' Amended	Description
		immigration judges on the dynamics of domestic violence in immigrant families and the legal rights of battered immigrants.
Protection for Certain Crime Victims	1513 101(a)(15)(U)	Adds new INA Section 101(a)(15)(U) which creates a non-immigrant visa for a limited group of immigrant crime victims who have suffered substantial physical or emotional injury as a result of being subjected to specific crimes committed against them in the U.S. law enforcement official must certify that the immigrant visa applicant has been helpful, is being helpful or is likely to be helpful to an the investigation or prosecution of criminal activity. If the Attorney General considers it

necessary to avoid extreme hardship the child, spouse or in the case of an immigrant child a parent may also get a visa. The maximum number of U visa's for primary visa applicants in any one-year is 10,000. There is no limit on derivative visas and the visas are not taken from any other visa category.

Crimes covered include: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact; prostitution; sexual exploitation, female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

Confidentiality: U visa petitioners are provided the same confidentiality protections as afforded battered immigrants under the Violence Against Women Act immigration provisions.

Waiver of Inadmissibility Grounds: Since these visas are only available to

cooperating witnessing in investigations or prosecutions of criminal activity, most grounds of inadmissibility are waivable by the Attorney General, except for participants in genocide, if the Attorney General considers the waiver to be in the public or national interest.

Discretionary Adjustment to Permanent Resident Status: In the Attorney General's discretion a U-visa holder who has been physically present in the United States for three years may adjust their status to that of a permanent resident when such adjustment is justified on humanitarian grounds, to ensure family unity or when it is otherwise in the public interest unless the immigrant has unreasonably refused to cooperate in an investigation or prosecution of criminal activity. The Attorney General also has the discretion to issue a visa to or adjust the status of the spouse, child or parent of a child if necessary to avoid extreme hardship.

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